

**Policy for Scholarship Funds
of
East Texas Communities Foundation**

The East Texas Communities Foundation (“Foundation”) encourages donors to create scholarship funds (“Funds”) for the benefit of worthy students. In order to protect its status as a public charity and the corresponding tax deductions of its donors, the Foundation has adopted the following policy governing scholarship funds:

1. **Agreement** - All Scholarship Funds shall be established for educational purposes pursuant to a written agreement between the Foundation and the donor, and all Funds shall be subject to the Foundation’s Articles of Incorporation, Bylaws and this policy, as amended from time to time.
2. **Board Approval** - The President/Executive Director of the Foundation is authorized to act on behalf of the Foundation in establishing scholarship funds according to the terms set forth in the policies adopted by the Board of Directors; provided, each scholarship fund agreement shall expressly provide that the agreement is not effective until the Board of Directors has formally approved the written criteria for awarding scholarships from such scholarship fund. A majority of the members of the Policy Committee of the Board of Directors has the authority to approve scholarship fund agreements and criteria for awarding scholarships on behalf of the Board of Directors. The authority to approve scholarship fund agreements or criteria for awarding scholarships has not been delegated to any of the Foundation’s Scholarship Committees. Confirmation from the Foundation to a donor of a tax deductible contribution to a scholarship fund shall not be delivered until the criteria for awarding scholarships has been approved for the scholarship fund to which the contribution is being made.
3. **Ownership** - All scholarship funds shall be component funds of the Foundation. The Foundation shall own all scholarship funds and have sole and absolute discretion over the investment and distribution of all scholarship funds.
4. **Variance Power** – In accordance with IRS regulations and the Bylaws of the Foundation, the Board of Directors of the Foundation shall have the power to modify any restriction or condition imposed by a donor on the investment or distribution of assets if, in the sole judgment of the Board of Directors, such restriction or condition becomes illegal, unnecessary, uneconomical, impossible to perform, or inconsistent with the charitable needs of the community or area served, and such modification would more effectively serve the charitable purposes of the Foundation taking into consideration the wishes of the donor.
5. **Recommendations** – The Foundation will consider recommendations with regard to the Selection Criteria and Scholarship Committee as described below:
 - a. **Selection Criteria** - At the time a scholarship fund is established, the donor shall provide the Foundation with a detailed written criteria for selection of scholarship recipients and any conditions applicable to scholarships awarded from the scholarship fund. Foundation staff, the Donor, or Committee may recommend changes to the scholarship criteria to keep the scholarship updated with current practices and the market for eligible applicants, but those changes must be approved by the Board of Directors of the Foundation.

- b. **Scholarship Committee** - A scholarship committee (Committee) shall be an advisor to the Foundation to make recommendations regarding the awarding of scholarships awarded from the Fund. However such recommendations are advisory only, and the Foundation shall not be bound by such recommendations. The Committee shall be composed of at least three persons all of whom shall be appointed by the Foundation. The Donor may make recommendations as to the membership of the Committee, but such recommendations shall be advisory only, and the Foundation shall not be bound by such recommendations. The Donor may serve on the Committee, but in no event shall the Donor or related parties constitute a majority of the Committee. Members of a Committee shall remain on such Committee until their respective successors are appointed, or until their death, resignation, or removal. Written recommendations for initial or successor Committee members, including the status of a Committee member's relationship to the Donor, will be submitted in writing to the Foundation and approved by the Grants Committee prior to the scheduled meeting of the Committee. Each year the Foundation will send the Donor a letter setting forth the members of the respective Committee and asking the Donor if the Donor desires to recommend successor members. In awarding scholarships from a scholarship fund, the Foundation will follow the criteria and conditions established by the donor and consider the recommendations made by the Committee. However, final discretion for the awarding of all scholarships shall rest with the Foundation. The Foundation shall advise the Committee any time that the Committee's recommendation for the awarding of scholarship funds is not accepted. The notice of disapproval shall be accompanied by an explanation of the reason(s) for such disapproval.
- c. **Investment** - The Donor, or any person properly designated by the Donor, may make recommendations to the Foundation regarding the investment of the Fund. However, such recommendations are advisory only, and the Foundation shall not be bound by such recommendations. Upon the resignation, incapacity or death of the Donor, or if no person or Scholarship Committee has been designated to make investment recommendations by the Donor, the Foundation shall select an investment strategy to fulfill the purpose of the Fund.
6. **Approval of Criteria** - The criteria established by the donor for awarding scholarships shall be subject to the approval of the Board of Directors of the Foundation. Scholarship criteria and conditions may be based on merit, need, or any other reasonable and legally permissible requirement, but the group of eligible recipients must be large enough that an indefinite number of persons may benefit.
7. **Publicity** - The Foundation may publicize the scholarship fund, eligibility criteria and applicable conditions.
8. **Records** - The Committee shall follow such procedures, keep such records and submit such reports in writing as required by the Foundation. If the Committee fails to comply with the requirements of the Foundation, the Foundation will notify the Committee in writing at its last known address. If, after three written notices of not less than thirty-day intervals, the Committee fails to correct such failure, then the Foundation may remove the existing Committee and appoint a replacement Committee.
9. **Failure to Act** - If the Committee fails to make recommendations to the Foundation regarding the awarding of scholarships for a particular year, then no scholarship shall be awarded from the scholarship fund for that year. If the Committee fails to advise the

Foundation regarding the awarding of scholarships for three consecutive years, and such failure is not cured within 30 days following written notice to the Committee at its last known address, then the Foundation may remove the existing Committee and appoint a replacement Committee.

10. **Distributions** - Distributions shall be made only to public charities as defined in Section 170(b)(1)(A) of the Internal Revenue Code (i.e., churches, schools, hospitals, government entities, and publicly supported 501(c)(3) organizations). The Foundation shall make distributions for scholarships in accordance with its spending policy for scholarship funds in effect from time to time. The Foundation reserves the right to accept non-permanent or Non-Endowed Scholarship Funds provided a separate scholarship agreement is completed and approved by the Board of Directors for each unique scholarship criteria and application process. Each Fund shall be defined as either an Endowed or Non-Endowed Scholarship Fund as described below and elected by the Donor in the fund agreement. If no selection is made, the Fund shall be considered an Endowed Scholarship Fund. When an Advisor recommends, and is approved by the Foundation to make a full distribution from a Fund, the Foundation may withhold up to 20% of the value of the Fund for up to 60 days to account for investment fluctuations and payment of final fees and expenses.

Endowed Scholarship Fund - Ordinary distributions from the Fund shall include awarding scholarships annually only if the value of the Fund exceeds \$10,000 and only in amounts not exceeding 5% of the value of the Fund determined as of the preceding December 31. During the first three years after establishment of the Fund, distributions may reach up to 10% of the value of the Fund without further approval. Extraordinary distributions (in excess of 5%) for scholarships may be made at any time in any amount if requested by at least a 2/3 vote of the Committee and approved by the Board of Directors of the Foundation.

Non-Endowed Scholarship Fund – A Non-Endowed Scholarship Fund may distribute up to 100% of the value of the Fund. The amount which will be distributed, including administrative fees, renewals, etc. should be contributed to the Foundation no later than December 31 of the year prior to the year in which scholarships are awarded. The scholarship cannot be publicized prior to receipt of funding.

11. **Minimum** – There is no minimum amount necessary to establish an Endowed Scholarship Fund, however, if the value of the Endowed Scholarship Fund fails to reach at least \$10,000 within three years after the establishment of the Fund, or if the value remains below \$10,000 for three consecutive years then the Foundation may transfer the Fund to its General Scholarship Fund or distribute any remaining funds to fulfill the purpose of the fund. If the Donor elects the Non-Endowed Scholarship Fund option above, the amount which will be distributed, including all administrative fees, and any amount of guaranteed renewals for future years should be contributed to the Foundation no later than December 31 of the year prior to the year in which scholarships are awarded. Upon the resignation, incapacity, or death of the Donor, and after the inclusion of any possible testamentary contributions to the Fund, any Non-Endowed Scholarship Fund with a balance of \$10,000 or greater shall become an Endowed Scholarship Fund.
12. **Approval of Distributions** - The Board of Directors reserves the right to approve all scholarship awards. With prior board approval, the President/Executive Director of the Foundation is authorized to make distributions to schools, colleges, universities, or educational institutions for the benefit of approved scholarship recipients, in accordance with the specific criteria established for each scholarship fund and the Foundation's Policy for

Scholarship Funds. The Foundation will verify that each nonprofit educational institution meets the criteria to receive funds and is added to the Foundation's preapproved grantee list, or will conduct the necessary investigation and seek approval of the grantee from the Grants Committee.

13. **Statements** - The Foundation shall provide the Committee with a financial statement of the scholarship fund at least annually.

14. **Fees**

- a. **Endowed Scholarship Fund Administrative Fee** - In order to provide for its administrative costs and charitable purposes, the Foundation shall transfer monthly an amount equal to 1/12 of 1.5% of the balance of each Endowed Scholarship Fund to the Foundation's Unrestricted Fund, with a minimum fee of \$300 annually.
- b. **Non-Endowed Scholarship Fund Administrative Fee** – An administrative fee equal to 10% of the amount to be awarded in a given year, with a minimum fee of \$500, will be charged annually for Non-Endowed Scholarship Funds. The fee will be collected prior to awarding scholarships. If it is unclear whether a fund is an Endowed or Non-Endowed Scholarship Fund, the highest applicable administrative fee will apply. Fees are incurred and computed separately for each individual scholarship agreement.
- c. **Investment** - In addition to the amount transferred annually to the unrestricted fund of the Foundation, each fund shall be charged for any out-of-pocket expenses (such as sales commissions, third party investment management fees, or other handling fees) incurred directly by that fund.
- d. **Other Expenses:** A fund may require additional professional services and administrative support from time to time which are over and above normal administrative costs. Each fund shall be charged for any out-of-pocket expenses incurred directly by that fund. Such additional costs may include consulting, legal, accounting, marketing and other fees for professional services incurred to support a specific charitable fund, or the processing of an unusually large number of disbursements or gifts.

15. **Pledges and Benefits** - No scholarship shall be awarded from the scholarship fund to satisfy a written pledge or legal obligation of any donor to the fund, member of the Committee, or employee or officer or director of the Foundation. No descendant of any donor to the fund, member of the Committee, or employee or officer or director of the Foundation shall be eligible for any scholarship awarded from the fund.

16. **Eligibility** - With respect to any scholarship fund established by an employer or membership organization for the benefit of its employees or members, or their descendants, (a) no employee, officer, director or member shall serve on the Committee, (b) there shall be no minimum time of employment or membership required for awarding a scholarship, (c) continuation of the scholarship shall not be dependent on continued employment or membership and (d) no obligation shall be imposed on a scholarship recipient which is for the benefit of the employer or membership organization.

17. **Exceptions** - Any exception to these policies must be approved by the Board of Directors of the Foundation.

Board Approved: November 16, 2018