

Donor Advised Fund Guidelines

Donor advised funds give donors the opportunity to play an active, personal role in their charitable giving while relying upon the Community Foundation's experience in fund management and grantmaking.

The benefits of donor advised funds include:

- The opportunity to shape philanthropic giving to reflect the donor's special interests and concerns
- The ability to involve future generations in philanthropy, if desired
- Access to current information on community needs, programs, and agencies through the Community Foundation's staff
- Options for creating both short-term and perpetual impact for the community
- Immediate tax benefits

Shaping Philanthropic Giving

Donor advised funds are very flexible vehicles that enable individual donors, families, businesses or civic organizations to create philanthropic impact in their community. A fund may be modest in the beginning, expanded over time, and even perhaps serve as a repository for proceeds from an individual's estate. Funds can be established as either non-permanent, thereby allowing for the use of both principal and earnings in the pursuit of charitable impact, or an endowed fund that will build an enduring, permanent resource for funding local needs over time. In every case, the donor retains the right to recommend grants to specific nonprofit organizations and can rely upon the Community Foundation's staff for expertise in fund administration, record keeping, investing and grant making to achieve the best possible outcomes.

Establishing a Fund

Creating a donor advised fund is easy. The Foundation handles the paperwork and the donor's tax benefits are attained immediately when the contribution is made. The Community Foundation and the donor will complete a Donor Advised Fund Agreement that will govern all aspects of the relationship moving forward. The donor will have the opportunity to guide the process by providing the following the information:

- Preferred name of the fund
- Longevity of the fund -- a non-permanent or an endowed fund
- Name of the advisor(s) who may recommend grants from the fund
- Advisors to succeed those originally named, if desired
- Amount of the initial contribution – minimum of \$20,000 to with up to five years to reach the minimum.
- Ability of others to donate to the fund

Guidelines for Donor Advised Funds

Federal tax law provides the definition of donor advised fund and the Pension Protection Act of 2006 provides guidance on policies governing their use. The Community Foundation has adopted the following policies to ensure that donors receive the maximum benefit available from donor advised funds while abiding by the spirit and the letter of the law.

Definition of a Donor Advised Fund. According to federal tax law, a fund is considered donor advised if it has **all three** of the following characteristics:

1. The fund is separately identified with reference to the contributions of the donor(s)
2. The fund is owned and controlled by the Community Foundation
3. The donor or persons appointed by the donor have, or reasonably expect to have the privilege of providing advice with respect to the fund's investments or distributions.

Contributions to Donor Advised Funds. All contributions to donor advised funds, whether for an endowed or a non-permanent fund, are **irrevocable**. By law, donor advised funds belong to the Foundation and are subject to the terms and conditions of our governing instruments, as amended. These governing instruments stipulate that the Foundation has the power to modify and vary any donor direction or restriction in the event it becomes unnecessary, incapable of fulfillment, or inconsistent with charitable needs.

Many forms of contributions are accepted for donor advised funds including cash, securities, real estate, and retirement plan assets. The Community Foundation's Gift Acceptance Policy provides information regarding the various options available and any relevant parameters for accepting gifts. Donors may establish or add to a donor advised fund through a bequest or other estate gift. All gifts are subject to the approval of the Community Foundation.

Excess Business Holdings. Under the Pension Protection Act of 2006, the private foundation Excess Business Holdings Rule applies to donor advised funds as if they were private foundations. That is, the holdings of the 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:

- Twenty percent of the voting stock of an incorporated business
- Twenty percent of the profits interest of a partnership or joint venture on the beneficial interest of a trust or similar entity

Ownership of unincorporated businesses that are not substantially related to the fund's purposes is also prohibited. Donor advised funds receiving gifts of interests in a business enterprise after the date of the Pension Protection Act's effective date of August 17, 2006 will have five years to divest holdings that are above the permitted amount.

Distributions from Donor Advised Funds. Donor advisors may make recommendations for grants from donor advised funds to qualified charitable organizations. Qualified organizations eligible for these distributions generally include those described in Section 501(c)(3) of the Internal Revenue Code and certain governmental entities. These include charitable, religious and educational organizations as well as school districts, public libraries and other units of government. In general, the Community Foundation does not allow grants to non-charitable organizations from donor advised funds. The Foundation will abide by its policies regarding due diligence and expenditure responsibility in the distribution of grants from donor advised funds. (See *Grantmaking Policies – Due Diligence in Grantmaking; Expenditure Responsibility; and Grants from Donor Advised Funds*) Given that the Community Foundation serves Monroe County, it is expected that the majority of grant dollars from donor advised funds will benefit Monroe County charitable

organizations. However, the Community Foundation recognizes that the philanthropic spirit is not bound by geography and will consider grant recommendations for charitable purposes outside our locale.

Donor advisors may make grant recommendations by completing, signing and submitting the **Distribution Suggestion Form for Donor Advised Funds** to the Community Foundation. U.S. Treasury regulations for advised funds stipulate that the Community Foundation cannot be bound by the advice of the advisor and must maintain the right to distribute funds in accordance with the charitable purpose of the fund as described in the fund agreement established with the donor. These requirements are designed to protect the tax deductibility of gifts and, therefore, require that the Community Foundation, rather than the donor, maintain control over all gifts. Suggestions made by donor advisors will be evaluated to confirm consistency with the broad purposes of the Foundation and the eligibility of the recommended recipient. Program staff will notify donor advisors when grants are awarded from the fund.

On occasion, the Community Foundation staff may provide donor advisors with information about special community needs, high impact giving opportunities, special program initiatives, or charitable needs that align with the donor's expressed interests. Our staff is always available to consult with fund advisors seeking input on grant recommendations.

The **minimum grant size** varies by the type of donor advised fund as follows:

- Endowed Donor Advised Fund - \$100
- Non-Permanent Donor Advised Fund - \$500

If a donor advised fund is eligible for grantmaking but the advisor does not provide any recommendations for distribution, the Community Foundation may direct the use of the available grant monies to benefit the community. Generally, the board of directors may assume the role of advisor if a donor advisor is inactive for two years and unresponsive to the Foundation's efforts to communicate.

The Community Foundation will provide written notification to donor advisors before a distribution is made from an inactive fund. If the donor advisor communicates a reason for delaying grants, the Foundation may consider suspending grantmaking for up to a maximum of five years.

If after three consecutive years no communication has been received by the Foundation from donor advisor to the Fund, and a good faith effort has been made by the foundation to contact advisor regarding the Fund, the assets of the Fund shall be managed as part of the general endowment funds of the Community Foundation.

Grant Restrictions and Prohibitions. IRS rules preclude certain types of distributions from Donor Advised Funds including:

- Grants to satisfy all or a portion of any pledge or financial obligation of the donor, advisors, or any related party.
- Grants from a donor advised fund cannot result in the donor, advisors, or any related parties receiving goods or services or any material benefit such as tickets to events, gifts, or memberships that carry more than a token value as defined by current IRS regulations.
- Grants to non-charities and private foundations.
- Donor Advised Funds may not make grants to individuals such as scholarships, emergency hardship grants, or disaster relief grants. This includes payment directly to an individual or

to an entity for the benefit of a specified individual. If donors wish to grant scholarships, a different type of fund would need to be established.

- Grants to Type I or Type II supporting organizations may be considered only if the organization that is being supported is not controlled by either the donor or an advisor appointed by the donor. Type III supporting organizations are not eligible to receive grants from donor advised funds.
- Donors, advisors, or any related parties may not receive grants, loans, compensation or similar payments, including expense reimbursements, from a donor advised fund.

Expenditure Responsibility. Pursuant to IRS rules, certain types of grants from donor advised funds require the exercise of expenditure responsibility. Expenditure responsibility is a process designed to ensure that a grant is used for charitable purposes and that the Community Foundation maintains appropriate oversight and documentation of certain grants from donor advised funds. Expenditure responsibility is required for grants to non-charities, private non-operating foundations, or certain supporting organizations of public charities. The Community Foundation's policy on *Due Diligence and Expenditure Responsibility* provides more detail.

In general, the Community Foundation will not make grants from donor advised funds that require expenditure responsibility. Because circumstances may occasionally warrant such a grant, the Community Foundation staff shall establish procedures for and shall exercise expenditure responsibility in compliance with the law.

Successor Advisors. At the time a donor advised fund is established, the donor(s) may recommend other living persons as successor advisors to the fund. These successors would assume the advising role defined in the original fund agreement. In the case of a business or a civic organization, a position within the organization (such as president) may be named to submit the group's recommendation to the Foundation.

After the death or incapacity of all successor advisors or upon request of the lead advisor or if after three consecutive years no communication has been received by the Foundation from the successor lead advisor to the Fund, and a good faith effort has been made by the foundation to contact the successor lead advisor regarding the Fund, the assets of the Fund shall be added to, and maintained, expended or distributed as part of the general endowment funds of the Community Foundation.

Donor Recognition. Donors to advised funds will be included in Community Foundation efforts to recognize, involve, thank and inform donors unless otherwise requested by the donor. Donors always have the option to remain anonymous. Unless requested, however, the recipients of grants from donor advised funds may be provided the name of the fund from which a grant was awarded. Program staff may provide the donor advisor's name and address to the grantee if requested for the express purpose of thanking the donor. The Community Foundation will abide by its *Donor Privacy Policy* unless otherwise requested by the donor.

For more information on donor advised funds and the possibilities they offer to donors and for our community, contact the Community Foundation at 812-333-9016.