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Donor Advised Fund Policy

This policy has been set forth by the Board of Directors (hereinafter “Board”) of the Community Foundation for the acceptance and administration of funds established by donors who desire the privilege of making recommendations as to distributions from such funds (hereinafter "DAF" or “Fund”). The purpose of this policy is to protect and benefit the Community Foundation and its donors who want to support charitable activities, projects and organizations.

This policy is intended to supplement but not replace any applicable federal and state laws governing not-for-profit and charitable organizations. If this policy ever conflicts with federal law or state law (including UPMIFA), the relevant law controls.

1. Ownership and Control

- a. A contribution to a donor advised fund is an irrevocable charitable contribution that is legally owned by the Community Foundation. Per the Pension Protection Act of 2006 (PL 109-280) (the “PPA”), the Community Foundation has exclusive control over contributed assets and the income derived therefrom.
- b. The PPA provides an explicit definition of donor advised funds as any fund or account:
 - i. which is separately identified by reference to the contributions of a donor or donors;
 - ii. which is owned and controlled by the sponsoring organization (i.e., the Community Foundation); and
 - iii. with respect to which a donor or person appointed by the donor has, or reasonably expects to have, advisory rights with respect to distributions.
- c. Under the PPA, the private foundation excess business holdings rule applies to donor-advised funds as if they were private foundations. The holdings of a donor-advised fund in a business enterprise, together with the holdings of persons who are disqualified with respect to that fund, may not exceed any of the following:
 - i. Twenty percent of the voting stock of an incorporated business;
 - ii. Twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity;
 - iii. Any interest in a sole proprietorship.

Ownership of unincorporated businesses that are not substantially related to a DAF’s purpose is also prohibited. Donor advised funds receiving gifts of interests in a business enterprise have five years from receipt of the interest 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.

The CFQA will identify any potential gift to a DAF that would qualify as an excess business holding and will notify the prospective donor of the Pension Protection Act of 2006 requirements prior to the contribution. The CFQA will monitor any such holding and will dispose of any excess business holding prior to the five-year time limit (or within ten years if the Secretary of Treasury grants an additional five-year holding period), as required by law. The CFQA will also comply with the requirements under the Pension Protection Act of 2006 related to reducing holdings in business interests which existed on the date of enactment of the Act. *(See also Investment Policy.)*

2. Advisor Privilege

a. Founding Donors/Advisors

- i. The Donor may designate, in the written instrument establishing the Fund, the person or position who is to exercise the recommendation privilege (Donor Advisor, Fund Advisor) on behalf of the Fund.
- ii. In the case of individual donors, or a married couple, the privilege of making recommendations regarding distributions from a DAF, unless sooner relinquished by the Donor, shall be limited to the lifetimes of the Donor and the Donor's spouse. If founding donors or advisors to a donor advised fund are subsequently divorced, the Community Foundation reserves the right to decline grant recommendations from either husband or wife unless unanimous consent is communicated in writing, or the appointment of advisors is restated or confirmed as deemed sufficient by the Community Foundation.
- iii. In the case of corporations, businesses or organizations, the privilege of making recommendations regarding distributions from a DAF, expires 20 years from the Fund's establishment date, unless sooner relinquished by the Donor.
- iv. In the case of corporations, businesses or organizations, at the end of the 20 years, and provided the Fund has a minimum market value of \$250,000.00, the Board can extend that period depending on the ongoing interest of the corporation, business, or organization, the history of its contributions and the continued existence of the original Donor or its successor corporation, business, or organization as a legal entity doing business in the geographic area served by the Community Foundation. The Donor may designate, in the written instrument establishing the Fund, the person or position within the corporation, business, or organization who is to exercise the recommendation privilege on behalf of the corporation, business or organization.
- v. In the case of communal funds, i.e. those established by a group of donors such as siblings, an extended family, friends, or a community, a Primary Advisor must be designated in writing and on record at the Community Foundation for the privilege of making recommendations regarding distributions from a DAF.

b. Successor Advisors

Founding Fund Donors often want to name someone to ‘succeed’ them as Advisors of their Fund. In order for a Fund to have Successor Advisors, the DAF must have a minimum market value of \$250,000.00 at the time of the Founding Donor’s death or written notice of the Donor’s incapacity or resignation. If the DAF does not have a \$250,000.00 minimum market value, including any irrevocable bequest forthcoming, all Advisory privileges cease and the Board of Directors of the Community Foundation serves as the Fund Advisor.

i. In considering the naming of Successor Advisors, the Donor is urged to bear in mind:

- Successor Advisors might not be inclined to share the same charitable passions as the Donor;
- Successor Advisors might not live in the Community Foundation’s geographic area and in fact may live in distant parts of the U.S. or other parts of the world which may or may not foster continued interest in the Fund;
- Successor Advisors may not wish to engage in learning about the Fund’s purpose, impact, recommendations, or future and growth.

ii. If Successor Advisors are named in the Fund Agreement:

- Names, contact information, and birthdates/years of Successor Advisors must be provided in writing to the Community Foundation at the establishment of the Fund. It is the Donor’s responsibility, then the Successor Advisor’s, to provide updated contact information to the Community Foundation.
- In the case of a ‘committee’ or of multiple advisors, a Primary Advisor must be designated in writing and on record with the Community Foundation.
- Primary and/or Successor Advisors must have reached the age of eighteen (18) in order to make recommendations. The Community Foundation’s Board of Directors shall serve as the advisor to the Fund, in accordance with the Donor’s distribution intent, until the Primary and/or Successor Advisor has reached the required minimum age.

Upon the resignation, incapacity or death of the Donor, the Successor Advisor serves until their resignation, incapacity or death.

3. Advisor’s Recommendations

- a. The Fund Advisor may submit written recommendations regarding the distributions to be made from a DAF and is encouraged to consult with the Community Foundation’s staff concerning general charitable purposes of the Community Foundation or the particular charitable purpose(s) stated in the Agreement.

- b. While Fund Advisor recommendations will be given careful and thoughtful attention by the Board and staff, the recommendations will be solely advisory and will not be binding upon the Community Foundation.
- c. Grant distributions are generally made to 501(c)(3) organizations.
- d. The Community Foundation serves a defined geographic area and urges the Fund Advisor to recommend grants within those boundaries. Grant recommendations for organizations, programs and projects outside the Community Foundation's geographic area may be considered.

4. Distributions

- a. The DAF Agreement will specify whether the Fund is endowed or whether principal can be distributed.
- b. The minimum grant that can be made from a fund is \$250. *(See also Component Fund Distribution and Fees Policy.)*
- c. The Community Foundation recommends that 10% of each distribution from a DAF be contributed to the unrestricted endowment of the Community Foundation. Unrestricted endowments enable the Community Foundation to determine the best use of funds to respond to needs and opportunities in the Community Foundation's geographic service area and interest range.
- d. The CEO may approve all Donor Advised Fund grant recommendations, excluding competitive grants, without first obtaining Board consent provided that grants are:
 - Consistent with the mission and purpose of the Community Foundation.
 - Consistent with the purpose of the fund.
 - Meet due diligence requirements.
 - Do not require expenditure responsibility.
 The Board must review grants approved by the CEO at its next regularly scheduled meeting. *(See also Grant Policy)*

5. Limitations on Distributions

- a. Per existing federal law, the following are prohibited distributions from Donor Advised Funds:
 - i. Securing benefits or special privileges for the Donor or related party or making any grant, loan, compensation, expense reimbursement, dues to an organization, or similar payment to the Donor or related party.
For purposes of this policy, related parties:
 - Family members of an individual are defined as follows: ancestors, spouses, siblings (by whole or half blood), spouses of siblings (by whole or half blood), children, grandchildren, great-grandchildren, and spouses of children, grandchildren and great-grandchildren. For purposes of the preceding sentence, a stepchild of an individual is treated as a child of such individual.

- Thirty-five percent controlled entities are those entities in which donors or donor advisors (or family members of such donors or donor advisors)
 - own more than 35 percent of the total combined voting power if the entity is a corporation;
 - own more than 35 percent of the profits interest if the entity is a partnership, or
 - own more than 35 percent of the beneficial interest if the entity is a trust or estate.
 - Donor advisor is any person appointed or designated by a donor that reasonably expects to have advisory privileges with respect to the distribution or investment of an amount held in the fund or account.
- ii. Distributions to individuals. This includes checks written directly to an individual or checks written to an entity for the benefit of a specified individual.
 - iii. Distributions for non-charitable purposes.
 - iv. Distributions to non-charities or most Type III supporting organizations, as defined by IRS Code, without expenditure responsibility.
 - v. Distributions to supporting organizations that are controlled by the donor or that support a charity that is so controlled
- b. The Community Foundation conducts due diligence and asks for Donor Advisor cooperation. The Pension Protection Act of 2006 (PL 109-280) now provides significant penalties for making such grants, as indicated above, both to the donor and the Community Foundation.

6. Independent Investigation

- a. If the Fund Advisor recommends a distribution to an organization, project or program which is not known to the Community Foundation, staff may make an independent investigation to evaluate whether the recommendation is consistent with the specific charitable needs most deserving of support by the Community Foundation and to report the results of the investigation to the Board.
- b. In addition, the staff may bring to the attention of the Fund Advisor those projects and/or organizations which may be of particular interest to the DAF.

7. Variance

If any gifts to the Community Foundation for the purposes of the Fund are received and accepted subject to restrictions as to the use of income or principal, said restrictions will be honored; subject, however, to the authority of the Board to vary the terms of any gift if continued adherence to any restriction is impractical, impossible, illegal or inconsistent with the charitable needs of the community or the area served.

8. Fees

The Community Foundation shall charge fees, based on the fee schedule established by the Board.

9. Termination of Advisors

The Advisory role of either the Donor or Successor Advisor(s) shall terminate upon:

- a. The death of the Donor Advisor and all Successor Advisors named in the DAF Agreement; or
- b. Written notice to the Community Foundation that a Donor Advisor or Successor Advisor(s) named in the DAF Agreement is not capable of serving or resigns as Advisor; or
- c. The failure of the Donor Advisor or Successor Advisor to make grant recommendations within a two (2) year period. At the end of the first year, the Community Foundation will attempt to contact the Advisor in six-month intervals. At the end of the second year without word or recommendation from the Advisor, the Advisory role shall terminate; or
- d. The Community Foundation reserves the right to terminate Successor Advisor privileges at its discretion and with appropriate written notification.

Upon the cessation of Advisory privileges, the Board of Directors of the Community Foundation serves as the Fund Advisor.

In each case, the Fund shall retain its name and the charitable disposition of its assets as determined by the terms of the Fund Agreement. If no such terms are indicated, the Fund retains its name and becomes an Unrestricted Endowment Fund.

Note: The administration of Donor Advised Funds is subject to change. Governing instruments; Board policies; IRS Regulations; and current federal, state and local laws may supersede information in this document.

I have read and agree to the terms of the Community Foundation of the Quincy Area’s Donor Advised Fund Policy. I further understand that the administration of Donor Advised Funds is subject to change. Governing instruments, Board policies, IRS Regulations, and current federal, state, and local laws may supersede information in this document.

Donor—Please Print

Donor—Signature

Date