**SAMPLE DONOR ADVISED FUND ACTIVITY POLICY**

*July 2023*

*This sample Donor Advised Fund Activity Policy provides language which can be included in a stand-alone policy or incorporated into an existing donor advised fund agreement or policy. The sample policy includes these required elements:*

*1) acceptable grant activity and qualified exceptions*

*2) donor communication prior to fund dormancy*

*3) activating grantmaking from inactive funds, and*

*4) definitions of terms used in this sample policy.*

***NOTE:*** *A Fund Activity Policy that is separate from a donor advised fund agreement should reiterate that a contribution to a donor advised fund is an irrevocable charitable contribution that is legally owned by the community foundation (i.e., sponsoring charity). These funds are institutional funds of the community foundation and may only be used for charitable purposes which do not confer any private benefit to the donor or any other disqualified person. If the policy language is included in the donor advised fund agreement, this language should already be included in that policy.*

**FUND ACTIVITY AND EXCEPTIONS**

The following definitions of fund activity and distributions apply to funds that have more than [$10,000] OR the Foundation’s minimum required balance to maintain a donor advised fund. If this policy ever conflicts with federal law or state law (including UPMIFA), relevant law controls.

A fund is considered active when a donor recommends grants or an interfund transfer to another grantmaking fund held by [COMMUNITY FOUNDATION] within a 3-year period. Exceptions may be made in certain scenarios, such as:

* ***Developing a Philanthropic Program*:** Fund advisor makes a substantial contribution to donor advised fund, for example, upon the sale of a business, and refrains from recommending grants for a given initial period while consulting with the sponsoring charity and/or doing research to determine what types of grants will best meet community needs and/or their philanthropic goals. This period is not to exceed [\*] years.
* ***Long-term Giving Plan***: Donor/fund advisor deliberately reduces the frequency or size of grant recommendations from fund, to:
  + build the fund balance to ensure grantmaking during retirement and/or when income changes.
  + build the fund balance to leave a charitable legacy for the next generation to advise. This period is not to exceed [\*] years.
  + grantmaking is deferred for a set period in order to make a larger grant or grants for a specific project.
* ***Starter “Acorn” Fund:*** Donor plans to build the fund balance over time according to [COMMUNITY FOUNDATION]’s policies. Typically, no distributions are made until the fund balance reaches the minimum amount and timeframe stated in the fund agreement and foundation’s policies.
* **Asset transition:** The Fund Advisor defers recommending grants while DAF assets are illiquid (such as real estate or restricted stock). [COMMUNITY FOUNDATION] will document steps being taken to liquidate assets and establish the fund’s grantmaking ability.
* ***Legal Issues:*** In some cases, legal issues may require suspension of grantmaking from a Fund until resolution. The Foundation will document steps being taken toward clarifying advisory authority and the fund’s grantmaking ability. Examples might include:
  + Donors/fund advisors are in the process of divorce. Grants may be suspended until the fund’s status is resolved.
  + Assets are being transferred to the fund during an estate settlement process; grants will not be made until the estate is fully settled.
* [*Include additional exceptions that are tailored to your community's needs. Note that gifts received and added to a donor advised fund do not qualify as “fund activity” or CFNS compliant exception.*]
* ***Other Issues****:* Other exceptions to this Fund Activity Policy made for an individual fund must be approved by the [COMMUNITY FOUNDATION]’s CEO and documented in the Fund record.

**COMMUNICATION**

*Donor communication regarding fund activity is determined by the individual community foundation.*

*Generally, CFNS expects to see communication after a year of inactivity.*

The foundation reviews grant activity on an annual basis. After 1 year of inactivity, the foundation will contact the donor by [\*]. [COMMUNITY FOUNDATION] may distribute a list of community projects to the donor as suggested recommendations. After 2 years of inactivity, the foundation will contact the donor by [\*]. The donor will be reminded of the foundation's fund activity policy.

**ACTIVATING GRANTMAKING**

*Every community foundation operates under circumstances unique to its donors and community. A community foundation may define fund inactivity as any time period of its choosing, not exceeding three years. For funds established with the expectation of delayed grant distributions exceeding your foundation’s minimum period, an addendum should be included in or added to the original fund agreement with an explanation.*

When a donor advised fund has not distributed a grant in more than a [3]-year period, the Foundation will take steps to activate the fund, such as:

* Final attempts to contact the donor/fund advisor,
* Distributing grants to qualified grant recipients that align with donor intent demonstrated in previous grant distributions,
* Distribution or asset transfer to a grantmaking fund of the Foundation, or
* Any other distribution in accordance with the fund agreement and [COMMUNITY FOUNDATION]’s policies. This may include termination of the Fund. If those provisions are incomplete, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served the Foundation may exercise its variance power to direct these resources to meet the needs of the community.

**DEFINITIONS OF TERMS**

***Qualified Charitable Organization***

Donors may deduct charitable contributions in accordance with Federal and their respective state tax codes only if donations are made to a qualified organization. Most organizations, other than churches and governments, and public schools must apply to the IRS to become a qualified organization. Refer to [COMMUNITY FOUNDATION]’s grantmaking policies for local grant making protocol.

How to check whether an organization can receive deductible charitable contributions.  You can ask any organization whether it is a qualified organization, and most will be able to tell you. Or go to IRS.gov. Click on “Tools” and then on “[Tax Exempt Organizations Search”](https://www.irs.gov/charities-non-profits/tax-exempt-organization-search) This online tool will enable you to search for qualified organizations.

***Sponsoring Organization***

An organization, like a community foundation, that owns and controls donor advised funds.

***Donor/Fund Advisor***

The donor or person appointed or designated by the donor who has or reasonably expects to have advisory privileges with respect to the fund’s distributions or investments. The donor/fund advisor retains the privilege to recommend grants from their charitable fund.

***Donor Advised Fund***

A fund may be classified as “donor advised” if it has at least three characteristics: (1) a donor or person appointed or designated by the donor has, or reasonably expects to have, advisory privileges with respect to the fund’s distributions or investments, (2) the fund is separately identified by reference to contributions of the donor(s), and (3) the fund is owned and controlled by a sponsoring organization, such as a community foundation. A fund possessing these characteristics may be exempt from the donor advised fund classification if it grants to one single public charity or government unit or if the fund meets certain requirements applicable to scholarship funds.

***Disqualified Person***

As applied to public charities, the term disqualified person includes (1) organization managers, (2) any other person who, within the past five years, was in a position to exercise substantial influence over the affairs of the organization, (3) donors and donor advisors with regard to transactions with a particular donor advised fund, (4) investment advisors to assets of donor advised funds, (5) and disqualified persons of supporting organizations who are also disqualified persons of the supported organization, (6) family members of the above, and (7) businesses they control. Paying excessive benefits to a disqualified person will result in the imposition of penalty excise taxes on that person, and, under some circumstances, on the charity's board of directors.