

# Strengthening Community Philanthropy Ad Hoc Working Group Final Recommendations

The [Strengthening Community Philanthropy Ad Hoc Working Group](#), convened by the Council on Foundations, released the following recommendations on donor-advised fund (DAFs), outlining steps to improve their effective and transparent use.

- [Standardizing Community Foundation Inactive Funds Policy](#)
- [Aggregate DAF Annual Distribution Requirement](#)
- [Private Foundation Distributions to Donor-Advised Funds](#)
- [Donation of Complex Gifts](#)
- [Expanding Charitable Giving](#)

# Standardizing Community Foundation Inactive Funds Policy

## Issue

Community foundations recognize the need to ensure that funds gifted to a DAF are used for charitable purposes. National Standards for U.S. Community Foundations requires all accredited community foundations to have a fund activity policy. However, there is variation among the policies. The lack of standardization across community foundations' policies makes collection of information about inactive funds difficult.

## Recommendation 1

To ensure that reporting is consistent, all community foundations should develop and enforce an inactive funds policy. In addition, as a best practice for the sector, community foundations would encourage all sponsoring organizations to develop similar policies and share them with their donors and the public.

Such policies would include the following elements:

- A standard definition of an inactive fund as one in which there has been no distribution advised out of the fund for three consecutive years.
- A standard procedure for classifying a fund as inactive, which may include a set number of attempts to reach the adviser.
- Allowance for limited exceptions to classifying a fund as inactive, including legal or practical impediments to making distributions, and funds of de minimis value.
- If a fund is classified as inactive, community foundations can use their variance power to terminate the fund agreement.

# Standardizing Community Foundation Inactive Funds Policy

## **Recommendation 2**

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Community foundations already provide data about the DAFs they manage as part of the Form 990 Schedule D, including total number of DAFs, aggregate value of contributions during the year, aggregate value of grants from DAFs during the year, and aggregate value at the end of the year.

In addition to this information, the Department of Treasury will be encouraged to issue a rule adding the percentage of inactive funds to the Form 990. An inactive fund would be defined according to the community foundation's inactive fund policy as described in the previous recommendation. The Department of Treasury would also include a section for community foundations to provide additional narrative about any inactive funds, so community foundations can provide additional context if they choose.

# Aggregate DAF Annual Distribution Requirement

## **Issue**

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One of the significant benefits of donor-advised funds is their flexibility in meeting the philanthropic goals of donors who do not need or want the level of control that private foundations provide, nor have the resources required to establish a private foundation. Therefore, treating individual donor-advised funds like a mini foundation is neither necessary nor beneficial.

At the same time, community foundations that hold donor-advised funds are public charities, and as is true for all public charities, there is no currently required annual payout requirement. While the total distribution of funds from donor-advised funds held by a community foundation is available on that organization's Form 990, the lack of a requirement can contribute to a misperception about how much DAFs distribute to nonprofits and communities.

## **Recommendation**

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The Working Group recommends a minimum payout requirement of 5 percent of the total amount of assets held in DAFs by the community foundation. This provides a floor for the amount distributed annually for charitable purposes, while maintaining the beneficial flexibility for individual donors.

- Calculations of the 5 percent annual distribution requirement would be like those already in place for private foundations.
- Community foundations would be able to include in their annual distribution all grants and related administrative expenses made to accomplish a charitable purpose like private foundations.

# Aggregate DAF Annual Distribution Requirement

- Community foundations that distribute more than 5 percent of their DAF assets may carry forward any excess for up to 20 quarters to address any future shortfall.
- Distributions between DAFs would not be counted as part of the 5 percent distribution requirement.

# Private Foundation Distributions to Donor-Advised Funds

## **Issue**

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Private foundations may use DAFs at community foundations to aggregate funds from various sources, simplify grantmaking activities, partner with their local community foundation on grantmaking, or for other reasons related to their strategic grantmaking. In addition, small private foundations may choose to terminate by distributing the funds into a DAF, which can simplify the termination process.

## **Recommendation**

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Funds contributed to a DAF by a private foundation should be advised out within 5 years if the gift is included as part of the private foundation's qualifying annual distribution.

- To facilitate the community foundation's administration of this recommendation, all funds contributed in a calendar year would be aggregated so that the calculations are done on an annual basis. In addition, a written agreement would be required with the name of at least one organization that will receive any funds remaining at the end of the 5-year period.
- An exception would apply for private foundations that terminate, or plan to terminate within 5 years, by distributing all their funds into a DAF at a community foundation.
- If the distribution to a DAF is not included as part of the private foundation's annual 5 percent distribution, it would not have to be distributed within 5 years.

# Donation of Complex Gifts

## Issue

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Under section 170 of the Internal Revenue Code, donors can receive a deduction for the fair market value of certain property donated to charitable organizations. For appreciated property, this benefit is two-fold: both a tax deduction for the contribution, and no tax on the build-in gain of the property. While some donations allow for relatively easy determinations of the value of the asset when it is donated to an organization, the value of other assets can be more difficult to determine.

## Recommendation

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We would support convening the charitable community to develop recommendations that impact contributions of complex assets to all section 501(c)(3) organizations, not solely contributions to donor-advised funds.

# Expanding Charitable Giving

## **Issue**

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Throughout America's history, charitable giving has been an important part of our society. While current tax policy includes limited tax deductions for individual charitable contributions, as we have seen over the past few years, that tax policy can help to incentivize individuals to not only give but give more, especially during times of incredible need.

## **Recommendation**

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We support changes to tax law that will encourage individuals to give and will benefit all who give. These changes include efforts like the Universal Charitable Deduction or a charitable tax credit to taxpayers who do not itemize, as well as include distributions from their IRA to donor-advised funds as an option for individuals to count toward their minimum distribution.

# Strengthening Community Philanthropy Principles

The Strengthening Community Philanthropy Ad Hoc Working Group agreed to the following set of shared beliefs about donor-advised funds as a starting point to guide the development of the above recommendations.

- 1 DAFs **incentivize** charitable giving and build a culture of philanthropy in communities large and small, rural and urban, across the country.
- 2 DAFs **enable** people and businesses from a wide range of income levels to invest in their communities as they determine best.
- 3 DAFs **promote and sustain** family and inter-generational giving, enabling families to create a legacy of giving and to pass on the value of “giving back” to children and grandchildren.
- 4 DAFs are active, **efficient, and flexible** grantmaking tools enabling donors to adapt nimbly to changing community conditions and needs.
- 5 DAFs enable donors to be **strategic** in their grantmaking over time to support community-based projects over the long term.
- 6 DAFs are **visible** at an entity level to inspire investment in causes and communities that need it the most.
- 7 DAFs **collectively serve** as a perpetual resource to support communities rapidly and responsively in times of crisis and opportunity in ways and places government cannot.
- 8 DAFs best serve changing local community needs and **build the common good**.
- 9 DAFs **leverage community leadership** and build upon the independence, permanence, public charity status, and local relationships alive in a community.