

# THE COMMUNITY FOUNDATION OF FREDERICK COUNTY

## Donor-advised Fund Policies

Presented for Board of Trustees approval June 28, 2019  
Pending Executive Committee approval, which was given on July 30, 2019

### **What is a Donor-advised Fund?**

A donor-advised fund defined under the Internal Revenue Code possesses three characteristics:

- The fund is separately identified with reference to the contributions of a donor or donors. For example: The Smith Family Fund established by the Smith family children.
- The fund is owned and controlled by a sponsoring organization such as the Community Foundation.
- The donor or persons appointed by the donor expect to have the privilege of providing advice with respect to the fund's investments or distributions.

### **Definition of Terms**

**Authorized Representative:** The fund founder or the fund founder's designee who has or reasonably expects to have advisory privileges with respect to the fund's distributions. The Authorized Representative retains advisory privileges for recommending grants from the fund according to the provisions in the fund agreement. If stated in the fund agreement, Authorized Representatives may nominate their successors, with approval of the Community Foundation Board of Trustees.

**Permanent fund:** At the time fund is created, the donor and the Community Foundation agree to whether the fund's spending policy categorizes the fund as endowed or quasi-endowed, with the expectation that the fund continue in perpetuity. With this in mind, both endowed and quasi-endowed funds are included in the term "permanent fund."

### **Minimum Fund Size**

Permanent (endowed and quasi-endowed) and pass through donor-advised funds may be started with a minimum of \$25,000.

Pass through funds must maintain an annual average balance of \$25,000 to be considered an active component fund. If the minimum balance is not maintained for a period of thirty-six (36) months, the fund will distribute the entire market value in grants at the recommendation of the Authorized Representative and the approval of the Community Foundation, and the fund will be closed. If the Authorized Representative is unable or unavailable to make grant recommendations, the Community Foundation's

Board of Trustees will determine the disposition of the remaining market value of the fund.

Minimums for donor-advised funds may be grandfathered as Community Foundation policies change, with the donor-advised funds meeting the minimums that were in place at the time of the funds' creation.

These policies and minimums may be changed at any time at the Community Foundation's sole discretion.

### **Contributing to a Fund**

Gifts to any Community Foundation component fund, including donor-advised funds, are irrevocable. The assets of donor-advised component funds are owned and controlled by the Community Foundation. Contributions to a fund may be made in any amount and at any time using cash, publicly traded securities or other property, including closely held stock, partnership interests, real estate, personal property, trusts and life insurance. Contributions are subject to acceptance by the Community Foundation. Contributions should be clearly designated to the Community Foundation, with the name of the fund noted on the check or in the accompanying correspondence.

Many donors make contributions using appreciated, publicly traded stock that has been held for longer than a year to enjoy maximum tax benefits. Contributions of property that may not have immediate liquidity are accepted at the Community Foundation's discretion and are subject to completion of the Community Foundation's due diligence procedures. Donors considering a gift in any form other than cash should contact the Community Foundation to discuss its appropriateness and to obtain delivery instructions.

### **Variance Power**

Some donor-advised fund agreements restrict distributions to a specific charitable purpose, such as education or the environment. Others may limit distributions to particular named organizations that have been agreed upon by mutual consent between the donor and the Community Foundation. These restrictions may apply from the inception of the fund or may come into effect at the conclusion of the advisory period. Any such restrictions are subject to modification by the Community Foundation if it determines, at its sole discretion, that the restriction or condition is unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

### **Authorized Representatives**

The initial Authorized Representatives for the donor-advised fund and their successors are named in the fund agreement. If the successors are family members of the following generations, the general rule is that the successors must be alive at the time

that the fund agreement is executed. Authorized Representatives must have reached the age of majority (age 18 in Maryland) to serve in this capacity. If the Authorized Representative is under the age of majority, the fund will continue to be invested and grow, with no distributions made until the age is reached. Exceptions to this must be approved by the Community Foundation at the time the fund is started.

If at any time there is more than one Authorized Representative for the fund as stated in the fund agreement, each Authorized Representative has a proportionate vote for the distributions from the fund. For example, if three children serve as the Authorized Representative, each child has a one third vote in making grant recommendations.

If a married couple creates the fund and the fund agreement designates each as an Authorized Representative, each person shares equally in making recommendations regarding grants from the fund. If the couple divorces, each continues to have a one half vote in making grant recommendations, unless otherwise determined through legal action or one party declining to participate as Authorized Representative.

If Authorized Representatives decline to serve in this capacity, submit a formal resignation, or do not respond to the Community Foundation's repeated efforts to get them to communicate over a thirty-six (36) month period, the Authorized Representatives' privilege is revoked permanently.

### **Recommending a Grant**

The minimum grant amount is \$500 per distribution, or whatever the minimum grant amount was at the time the fund was started.

Grants must be for charitable purposes. Authorized Representatives may recommend grants to any organization described in section 501(c)(3) of the Internal Revenue Code except that the Community Foundation does not make grants to private foundations. Authorized Representatives may also recommend grants to most units of government (e.g., public schools, colleges and universities, town and municipal governments, police and fire departments, public libraries, etc.).

The Community Foundation does not make unrestricted grants from donor-advised funds, even for charitable purposes, to non-501(c)(3) nonprofit organizations or to businesses. Examples of organizations to which the Community Foundation will not grant include social welfare organizations (501(c)(4)); veterans' organizations; cemeteries; business associations; fraternities and sororities; social clubs; and civic organizations such as Rotary, Kiwanis, and Elks. Special exceptions may be made with the Community Foundation's approval and budget review for grants to these types of organizations for projects that have community benefit outside of their own membership, such as a veteran's organization beautifying a local public park or a civic group hosting local public school students for an activity fostering world peace. However, if these types of grants are awarded, the Community Foundation must exercise expenditure

responsibility, with approval of the overall project budget, implementation of checks and balances to ensure good stewardship of the grant, and reporting requirements.

The Community Foundation may make grants to U.S. organizations that carry on their work in other countries. However, the Community Foundation does not make grants from donor-advised funds to non-U.S. organizations or governmental entities.

The Community Foundation staff will notify the Authorized Representative annually of the amount available for grantmaking.

Authorized Representatives' written grant recommendations must be submitted to the Community Foundation's Community Impact Associate through electronic or inked means. Each written communication should include the amount of the recommended grant, the name and address of the grantee, and any restrictions of the grant, such as, capital projects, a particular program, a specific campaign, etc. The Community Foundation staff then conducts its due diligence, which includes checking the grantee's standing with federal and state registrations, and possibly reviewing past site visit and grantee reports and the grantee's website to ascertain if any programmatic, stewardship or reputational issues exist.

Grant recommendations under \$25,000 are approved by staff and are then presented for ratification at the next Community Foundation Board meeting. Grant recommendations exceeding \$25,000 are approved by the Board only.

In all cases, Authorized Representatives' grant recommendations are purely advisory in nature and the Community Foundation Board of Trustees is not bound nor obligated to approve recommendations that in its sole estimation are do not comply with the Community Foundation's mission or do not provide community benefit. All grants from donor-advised funds must comply with all governmental regulations, as may be amended from time to time.

Grant checks for amounts less than \$25,000 are usually mailed within ten (10) working days from when the Community Foundation receives the recommendation but may take longer with due diligence. Grant checks for amounts exceeding \$25,000 may take longer due to the monthly Board meeting schedule.

From time to time, the Community Foundation may bring to the Authorized Representatives' attention to grant making opportunities in which they may have an interest. The Authorized Representative is not obligated to recommend a grant for the identified program. Authorized Representatives may be furnished periodically with lists of the unmet charitable needs of the community as determined by the Community Foundation or worthy grant applications the Community Foundation is not able fulfill.

### **Grant Restrictions**

The Internal Revenue Code prohibits grants to individuals from donor-advised funds. Also prohibited are grants for political contributions or to support political campaigns. Grants may not result in benefits, goods, or services to the donor, the Authorized Representative, members of their families, and businesses they control. Failure to observe this restriction can subject the Authorized Representative to tax penalties. Benefits include the payment of pledges, event tickets, meals, sponsorships, registration fees, discounted merchandise, preferred parking and/or seating, and memberships unless the membership confers nothing of value. Authorized Representatives are encouraged to contact the Community Foundation prior to submitting a grant recommendation if a grant is being considered that may have a prohibited benefit.

### **Payments from a Donor-advised Fund**

Expense reimbursements, loans, compensation, and other similar payments are not permitted from a donor-advised fund to a donor, Authorized Representative, or related party.

### **Grant Acknowledgment**

Unless other arrangements have been made (e.g. anonymity requested), the grant letter will indicate that the contribution is from “The XYZ Fund of The Community Foundation of Frederick County” and that it has been given upon the recommendation of the Authorized Representative. The grantee is encouraged to acknowledge the Authorized Representative’s recommendation which resulted in the grant, as well as the Community Foundation that approved and awarded the grant. Additional language confirms that no benefits have been offered or provided to the Community Foundation or the Authorized Representative in exchange for the accompanying grant. If the grantee publishes a news release or a list of donors, it is asked to indicate the contribution as a grant from “The XYZ Fund of The Community Foundation of Frederick County.”

### **Fundraising**

Donors, friends, volunteers, and others sometimes want to raise money to add to a fund. All parties wanting to raise monies for any of the Community Foundation’s component funds must abide by its outside fundraising policies, which can be found on the Community Foundation’s website at [www.FrederickCountyGives.org/about/resources](http://www.FrederickCountyGives.org/about/resources) or copies can be obtained by contacting the Community Foundation.

### **Investments**

The Community Foundation has the sole responsibility and authority for investing the assets of each component fund, including donor-advised funds. Decisions with respect to the retention, investment, or reinvestment of assets and commingling of assets shall

be made by the Community Foundation's Investment Committee, within the parameters established by the Community Foundation's Board of Trustees. Donor-advised funds are customarily invested and commingled with assets of other Community Foundation component funds.

The Community Foundation maintains investment pools with varying risk and return objectives, including the Balanced Growth, Balanced Income, Maintenance of Principal, and Growth Options. All investment options are reviewed and approved by the Community Foundation's Investment Committee and may change from time to time as the Community Foundation's Board of Trustees determines. Fund founders and Authorized Representatives may recommend in writing which option to invest their fund.

More detail on each option can be found on the Community Foundation's website at [www.FrederickCountyGives.org](http://www.FrederickCountyGives.org) or in the Community Foundation's annual report.

The Community Foundation also maintains the "\$500,000 policy" which states that fund founders and Authorized Representatives may recommend in writing an investment manager outside of the Community Foundation's pool if the fund's market value exceeds \$500,000. The Community Foundation reserves the right to approve or deny the investment manager recommendation at its sole discretion and continues to reserve the right to terminate the investment relationship at any time at its sole discretion. The investment manager must adhere to the Community Foundation's investment policy statement, meet with the Investment Committee as needed, disclose any conflicts of interest, and report on the investments in the format mandated by the Community Foundation. Fund founders and Authorized Representatives may not also serve as the investment manager for their fund. Additional information can also be obtained on the Community Foundation's website at [www.FrederickCountyGives.org/give/start-a-fund/fund-policies](http://www.FrederickCountyGives.org/give/start-a-fund/fund-policies) and in the annual report.

The Community Foundation's long-term investment objective is to preserve and grow the real value of its funds. This means that the Community Foundation seeks a total rate of return that supports the Community Foundation's grantmaking, expenses, investment fees, and inflation. The Community Foundation measures whether it has achieved that objective over a various periods of time.

The Community Foundation hires an investment consultant and investment managers from time to time to carry out its investment management responsibilities with respect to its invested asset pool.

### **Fees and Minimums**

The Community Foundation assesses fees, including investment management fees, against all its funds to cover the cost of administration and to continue the Community Foundation's important work in the Frederick County community. Fees provide the necessary resources to operate efficiently and effectively, ensuring fiscal responsibility in grant due diligence, donor and nonprofit education, research, and other activities.

The Community Foundation's current administrative fee schedule for donor-advised funds is the greater of 1.25 percent of the annual market value of the fund, paid quarterly in advance, or \$375.

Investment management fees vary between .5 and 2.5 percent depending on the investment manager. More detailed information on fees can be obtained from the Community Foundation.

## Active Funds

A fund is considered active when regular communications occur between the Authorized Representative and the Community Foundation regarding the existence and purpose of the fund. Examples of possible activities that would deem a fund active include, but are not limited to:

- **Regular grant recommendations.** The Authorized Representative recommends grants at least annually to qualified charitable organizations. The amount of grantmaking can vary from year to year.
- **Development of a grantmaking strategy.** The Authorized Representative and the Community Foundation mutually agree to let the fund grow through investment return for a period of time, while refraining from grantmaking, so that the Authorized Representative's philanthropic goals can be fulfilled. Possible philanthropic goals may include but are not limited to: building the fund over time so that Successor Authorized Representatives can make larger grants later: waiting for the Authorized Representatives' retirements years to begin so that their charitable support can continue when their income decreases; starting the fund now but refraining from grantmaking until a planned gift is received; and/or waiting to start grantmaking until family situations subside (ex: divorce, deployment overseas, catastrophic illness) or estates are settled.
- **Grantmaking for the Community Foundation's strategic initiatives without advisement.** The Authorized Representative requests that the Community Foundation use the fund's annual distribution to support its strategic initiatives for a mutually agreed upon period of time, without advisement from any party. When the strategic initiative grantmaking period expires, the Authorized Representative continues with making grant recommendations.
- **Acorn period.** Funds may be started at less than the minimum, with a pledge to grow the fund to the minimum balance to start a fund attained on or before 24 months expire. This timeframe is referenced as the Acorn period. The Acorn period will not count toward the three-year inactivity threshold to determine inactive funds. No grants may be awarded while a fund is considered an Acorn fund.
- **Unusual situations.** The fund may refrain from grantmaking due to unusual situations, with the Board approving waiving the start of the three-year inactivity threshold. These situations may include but are not limited to the following:

- Authorized Representative is incapacitated with no successors so the Community Foundation waits until the Authorized Representative's demise to repurpose the fund.
- Successor Authorized Representatives are minors and the Community Foundation approves waiting until they become the age of majority to assume the role of the Authorized Representative
- Grantmaking is suspended during litigation that affects the fund or the Authorized Representative.
- The Authorized Representative is experiencing major illness personally or within the family and needs to focus attention in addressing their needs.

For permanent funds, including endowed and quasi-endowed funds, funds should be invested for 12 months before grantmaking begins. This initial year does not count toward the three-year inactivity threshold that is used to determine inactive funds.

### **Inactive Funds**

A fund is deemed inactive if:

- The Authorized Representative dies or resigns or evidence of his or her incapacity is provided to the Community Foundation, and if no successor Authorized Representative has been named.
- All named successor advisors are unable or unwilling to serve as such, or do not respond to repeated efforts to contact them.
- No recommendations are made with respect to grants from the fund for a period of three (3) years and, during such period, the Authorized Representative or the successor does not reply to the Community Foundation's repeated, documented attempts to contact them.

If the fund becomes inactive, the Community Foundation will deem the advisory period to have ended and will initiate distributions from the fund in accordance with the provisions of the fund agreement. If no provisions are included in the fund agreement, the Community Foundation will determine the disposition of the fund's market value at its sole discretion.

The Community Foundation's policy on inactive permanent donor-advised funds is to maintain the fund with its designated name, but the use of the distributions will be determined at its discretion. The fund will be reclassified based upon these decisions, but will no longer be classified as a donor-advised fund.

The Community Foundation's policy on inactive pass through funds is to maintain a separate, named fund if the market value exceeds the current minimum to create a fund, with the fund's purpose determined at the Community Foundation's sole discretion. If the market value is less than the current minimum to create a fund, the fund will be terminated and the Community Foundation will determine the disposition of

the fund's market value, which may be added to an already existing component fund or may be awarded in grants in the current fiscal year.

Once a fund meets the criteria above for being deemed inactive, the following steps will be taken:

- The Community Foundation Board of Trustees will officially deem the fund as inactive and will determine the fund's future based on the fund agreement's provisions for such a scenario. If the fund agreement does not include provisions for an inactive fund, the Board will exercise its variance powers and will determine an appropriate purpose for the fund, at its sole discretion.
- The Community Foundation will notify the Authorized Representative by certified letter of the Board's actions and the future use of the fund.
- The Community Foundation will document the actions taken and will reclassify the fund accordingly.
- The term "donor advised" will be omitted from the name of the fund, if warranted.