



## **DONOR ADVISED FUND POLICY**

### **Statement of Purpose**

A donor advised fund, as 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 a community foundation).
- The donor or persons appointed by the donor expect to be able to provide recommendations with respect to the fund's distributions.

In order to comply with the many regulations of the Internal Revenue Code regarding donor advised funds, The Community Foundation San Luis Obispo County has developed this policy regarding donor advised funds.

### **Statement of Policy**

The Community Foundation San Luis Obispo County ("Foundation") will apply the following policy to its donor advised funds:

#### **Minimum Fund Size**

The minimum amount required to set up a donor advised fund at the Foundation is \$25,000 for an endowed fund, and \$10,000 for a non-endowed fund. The balance required to keep the fund in active status is \$2,500. Should a fund fall below that balance for more than six months, the Foundation will have a dialogue with the donor or fund representative to discuss future plans for the fund. These policies and amounts are subject to change at any time by amending this policy.

#### **Contributing to a Fund**

Gifts to a fund are irrevocable. The assets of donor advised funds are owned and controlled by the Foundation. Contributions to a fund may be made in any amount and at any time.

Contributions may be made 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 Foundation. Contributions should be clearly designated by fund name: “The XYZ Fund of The Community Foundation San Luis Obispo County.”

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 discretion of the Foundation, and subject to completion of due diligence procedures. Donors considering a gift in any form other than cash should contact the 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. These restrictions may apply from the inception of the fund or may come into effect upon the death/resignation of the donor and/or the successor donor advisor. Any such restrictions are subject to modification (“Variance Power”) by the Foundation if it determines, in 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 as stated in Treas. Reg. 170A-9(f)(11)(v)(B)(1).

### **Fund Advisors**

The initial fund advisors are those persons named in the fund agreement.

Following the death of the original fund advisor(s), the Foundation allows for one further generation of successor fund advisors. Following the death or resignation of the successor advisors, the Foundation will act as the fund advisor.

If at any time there is more than one advisor to the fund, the advisors will appoint a designee and all communications to and from the Foundation will be through the designee. If no designee has been appointed, the Foundation will consider the first advisor named in the agreement to be the designee.

### **Recommending a Grant**

Grants must support charitable purposes. The minimum recommended grant amount is \$500.

Grants are recommended by donor advisors on the Donor Advised Fund Grant Recommendation Form. The form must be completely filled out with name of recipient organization, contact person, address, phone number, dollar amount of grant, and specifics regarding any restriction or special instructions. Signature on the Donor Advised Fund Grant Recommendation Form certifies that the donor acknowledges that the suggestion does not represent a *quid pro quo* such as the payment of any pledge or other personal financial obligations on behalf of the donor, advisor, family members and businesses they control; nor does the signer expect any personal

benefits from this charitable distribution as outlined in and IRC §4967 or compensation per IRC §4958(c)(2).

The Foundation will allow an advisor to submit a grant recommendation via email. If the Donor Advised Fund Grant Recommendation Form does not accompany the email, the donor will be asked to acknowledge via email that the suggestion does not represent the payment of any pledge or other personal financial obligations on behalf of the donor, advisor, family members and businesses they control; nor does the signer expect any personal benefits from this charitable distribution. The advisor will also be asked to confirm the intent of the grant in writing, whether the grant is unrestricted or to benefit a particular program.

Advisors may recommend grants to any organization described in section 501(c)(3) of the Internal Revenue Code, except that the Foundation does not make grants to private foundations. Donors may also recommend grants to most units of government (e.g., public schools, colleges and universities, town and municipal governments, police departments, etc.).

The Foundation will on occasion allow grants from donor advised funds to nonprofit organizations which are non-charities or businesses. Examples of this include social welfare organizations (501(c)(4)); veterans' organizations; cemeteries; Chambers of Commerce and similar business associations; fraternities and sororities; social clubs; and fraternal organizations such as Elks and Moose. In the case of this type of grant, the Foundation must exercise expenditure responsibility.

If the Foundation elects to make an expenditure responsibility grant, it will follow the following process:

- a. The Foundation will conduct a pre-grant inquiry to determine whether the proposed grantee is reasonably likely to use the grant for the specified purposes and that those purposes are charitable.
- b. The Foundation and grantee will sign a written grant agreement that includes all provisions required by Treasury regulations.
- c. The grantee will be required to maintain the grant funds in a separate account on the grantee's books.
- d. The grantee will be required to submit a written report summarizing the project promptly following the end of the period during which it used all grant funds and to submit any interim reports the Foundation may require.

The Foundation may make grants to U.S. organizations that carry on their work in other countries. It is uncommon, but on occasion, the Foundation may make a grant from a donor advised fund to non-U.S. organizations or governmental entities. In such a case, an equivalency determination must be made, or expenditure responsibility procedures must be followed.

From time to time the Foundation may bring to the advisor's attention grant-making opportunities in which the advisor may have an interest. The advisor is not obligated to recommend a grant for the identified program. Advisors may be furnished with lists of the charitable needs of the community as determined by the Foundation from time to time.

### **Grant Restrictions**

IRC §4966(c)(1)(A) 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 fund advisor, members of their families, and businesses they control. Failure to observe this restriction can subject the fund advisor to tax penalties. Benefits include, but are not limited to, the payment of pledges, event tickets, meals, silent auction purchases, sponsorships, registration fees, discounted merchandise, preferred parking and/or seating, and memberships unless the membership confers nothing of value. Advisors must contact the Foundation if they have specific questions about whether a grant they are considering recommending will result in 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, fund advisor, or related party.

### **Grant Acknowledgment**

Unless other arrangements have been made (e.g., anonymity requested), the grant award letter accompanying the grant check will indicate that the distribution is from "The XYZ Fund of The Community Foundation San Luis Obispo County" and that it has been given upon the recommendation of the named advisor. The recipient organization is encouraged to send an acknowledgement of the grant to the advisor unless the Foundation is advised otherwise by the donor. Additional language confirms that no benefits have been offered or provided to the Foundation or the advisor in exchange for the accompanying grant. If the recipient organization publishes a news release or a list of donors, it is asked to indicate the distribution as a grant from "The XYZ Fund of The Community Foundation San Luis Obispo County."

### **Fundraising**

Donors/advisors sometimes wish to raise money to add to their advised funds. The Foundation's policies on fundraising are documented in a separate policy (Donor-Initiated Fundraising Policy), which is available upon request. Fundraising, if permitted, must strictly adhere to the guidelines in the policy and to any additional restrictions imposed as a condition of the Foundation's consent.

## **Investments**

The Foundation has the sole responsibility and authority for investment of the assets of each Donor Advised Fund. Decisions with respect to the retention, investment, or reinvestment of assets and with respect to commingling of assets shall be recommended by the Foundation's Investment Committee and approved by the Foundation Board of Directors ("Board") in accordance with the Foundation's Investment Policy Statement. Donor advised funds are customarily invested and commingled with the assets of other funds held by the Foundation.

When the size of an endowed fund warrants separate investment consideration, (funds over \$1,000,000), the Foundation will endeavor to accommodate requests from donors for separate investment of fund assets, or use of a particular investment manager, broker, or agent, in accordance with the Foundation's Investment Policy Statement.

The Foundation's long-term investment objective is to preserve the real value of its permanently endowed funds, also known as the "corpus". This means that the Foundation seeks a total rate of return that supports the Foundation's grantmaking, expenses, administrative and investment fees, and inflation.

The Foundation appoints an investment advisor to carry out some of its investment management responsibilities with respect to its invested asset pool.

Non-endowed donor advised funds are not invested in the Foundation's investment pool, rather they are kept in cash or cash equivalents due to the liquid nature of such funds. Such non-endowed funds will not be credited with any investment income.

## **Fees and Minimums**

The Foundation assesses fees, including but not limited to investment management fees, against all its funds to cover the cost of administration and to continue the Foundation's important work in our 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 Foundation's current administrative and investment fee schedule for donor advised funds can be found in a separate policy (Administrative & Investment Fee Policy). This policy is updated and approved by the Board every calendar year, and is provided to all prospective donor advisors.

Investment management fees for endowed funds are passed along to all endowed funds on a pro-rata basis. Investment management fees charged are actual fees, as opposed to administrative fees, which are a percentage of average fund balance.

## **Inactive Funds**

A Donor Advised Fund is deemed inactive if:

- The fund advisor dies or resigns or evidence of his or her incapacity is provided to the Foundation, and if no successor advisor has been named.
- All named successor advisors are unable or unwilling to serve as such.
- No activity takes place within the fund for a period of five years, and during such period, the advisor or successor advisor does not reply to the Foundation's attempts to contact them.

If a donor advised fund becomes inactive, the Foundation may deem the donor advisory period to have ended and may initiate the fund termination process detailed below. The Foundation's policies and procedures regarding inactive funds are documented in a separate policy (Fund Activity Policy).

### **Termination**

Unless otherwise specified in the fund agreement, upon the death, resignation, or incapacity of the last advisor to the fund, or if the fund is determined to be inactive, the assets of the fund will become a part of the Foundation's assets under management and distributions will be recommended by the Board using variance power authority in accordance with the donor's stated intention. If the principal balance of the fund exceeds \$25,000, the Fund may continue to be maintained as a separate named endowed fund for discretionary purposes.