

**POLICIES AND PROCEDURES FOR ESTABLISHING AND OPERATING
DONOR-ADVISED FUNDS (INCLUDING CORPORATE-ADVISED FUNDS)
COMMUNITY FOUNDATION OF UTAH**

The Board of Directors ("Board") of the Community Foundation of Utah ("CFU") has authorized the establishment of Donor-Advised Funds ("DAFs"), including Corporate-Advised Funds ("CAFs")¹. This document ("DAF Policy") sets forth CFU's policies and procedures for establishing and operating DAFs. This DAF Policy may be amended by the Board at any time and for any reason.

1 Donor-Advised Funds at CFU

DAFs are established when a person or legal entity gifts or transfers money or property to CFU. Each DAF is the exclusive property of CFU, held by CFU in its corporate capacity and not as a trust fund held by CFU in a trustee capacity. As such, CFU shall have the ultimate authority and exclusive legal control of all assets in the fund, including any income derived from it, and complete discretion to make grants out of the DAF to carry out its charitable purposes. CFU reserves the right to take any actions at any time which, in its sole discretion, it deems reasonably necessary or desirable for the proper administration of the DAF. DAFs at CFU shall only be used to further CFU's charitable purposes, as set forth in its Articles of Incorporation and Bylaws, as amended from time to time (collectively, "Governing Documents").

Each DAF is a component part of CFU and is subject to the Governing Documents, notwithstanding any provision to the contrary contained in this DAF Policy, the applicable fund agreement, bequest, deed, or transfer instrument. Nothing in this policy is intended to alter CFU's status as a public charity under § 509(a)(1), (2), or (3) of the Internal Revenue Code. This policy shall be interpreted in a manner consistent with this intention and so as to conform to the requirements of the Internal Revenue Code and any regulations issued pursuant thereto applicable to the intended status of CFU and of the DAF as a component part of CFU.

All gifts to DAFs are irrevocable gifts subject to the legal and fiduciary ownership and control of CFU, which is ultimately exercised by its Board. A donor advisor may not impose any material restriction or condition that prevents CFU from freely and effectively employing the gifted assets, or the income derived therefrom, in furtherance of CFU's charitable purposes.

CFU reserves the right to take any actions at any time which, in its discretion, it deems reasonably necessary or desirable for the proper administration of any DAF.

¹ Unless otherwise indicated, for purposes of this policy, CAFs will be subject to the same terms and conditions as other DAFs.

2 Role of the Donor Advisor

CFU welcomes the involvement and recommendations of donor advisors with respect to grants from DAFs. Grant recommendations must be made in writing, preferably by completing the Donor Grant Recommendation Form but, at a minimum, providing the same information requested by that form. This Form can be submitted by mail, fax, email or online.

Although CFU seeks to honor donor intent to the extent allowed by law and by its own charitable purposes, recommendations by donor advisors are advisory only. Additional information about permissible grant recommendations can be found in Section 4.

3 Fund Contributions & Minimums

Any gift, once accepted by CFU, represents an irrevocable gift to CFU and is not refundable. Moreover, donor advisors are not permitted to make any restrictions on their gifts. Any grant recommendations provided by donor advisors shall be advisory only and are not in any way legally binding on CFU.

The minimum amount to establish a DAF at CFU is \$10,000 (\$100,000 for separately managed accounts, see Section 5 for more information). The minimum to establish a CAF is \$50,000. This minimum initial gift can be given at one time or incrementally over a three-year time period. Donor advisors will not be able to recommend grants until the fund is fully funded with the minimum start-up amount. If a fund is not fully funded after the three-year probationary period, CFU will meet with the donor advisor to reevaluate their philanthropic goals and assess whether to close the fund.

After the fund is fully funded, additional gifts can be made at any time and in any amount. CFU happily accepts most complex assets as gifts. However, all gifts are subject to the terms of CFU's Policies and Procedures for Accepting Gifts ("[Gift Acceptance Policy](#)"). Donor advisors are also responsible for preparing any and all instruments necessary to transfer the assets to CFU. Moreover, for many non-cash gifts, donor advisor will be required to provide additional tax documents, including but not limited to Form 8283, for which donor advisor may need to obtain a qualified appraisal at his/her own expense. CFU will not provide valuations for any gift.

Once established, DAFs must maintain a \$2,500 minimum balance at all times; CAFs must maintain a minimum balance of \$10,000. If a fund drops below this minimum, CFU may, at its sole discretion, close the fund and transfer the balance to another CFU fund.

The Pension Protection Act of 2006 prohibits DAFs from having "excess business holdings." Accordingly, CFU's DAFs, together with any donor advisor, fund representative, Board member or Disqualified Person, as defined by the Internal Revenue Service, (including any family members), may not hold more than twenty percent (20%) interest in a business enterprise. CFU will not knowingly accept any gift that violates this law. Moreover, donor advisors are required to make take good faith actions to avoid gifting

any interest that would violate this law and to immediately notify CFU upon learning of any interest that might violate this law.

4 CFU Variance Power; Due Diligence

While CFU's goal is to honor donor intent and to serve Utah by supporting an extremely broad range of charitable work, CFU reserves the right to reject any requested grant or to refuse to support any recommended organization or group if CFU, in its sole discretion, believes doing so would be inconsistent with the law or CFU's charitable purposes, or for any reason at all.

Moreover, all grants from DAFs are subject to the Board's variance power as outlined in the Governing Documents. This variance power allows the Board to modify any condition or restriction on distributions, including grants, from any fund at CFU if, in its sole discretion, the condition or restriction becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable purposes and functions of CFU. All grants from DAFs must also be ratified by the Board.

Because of the IRS's rules and reporting requirements, CFU will generally only make grants to certain types of tax-exempt charitable organizations, including:

- Churches (§170(B)(1)(A)(i));
- Schools (§170(B)(1)(A)(ii));
- Hospital or medical research organizations (§170(B)(1)(A)(iii));
- Organizations operating for the benefit of a college or university owned by the government (§170(B)(1)(A)(iv));
- Government units (§170(B)(1)(A)(v));
- Organizations receiving substantial support from a government unit (§170(B)(1)(A)(vi));
- Other publicly supported organizations (§509(a)(2));
- Private operating foundations; and
- Some supporting organizations (§509(a)(3)).

Other organizations, including those doing great work in the community, require additional due diligence and reporting requirements, so CFU will only make grants to these types of organizations in special circumstances. These excluded organizations include:

- Private non-operating foundations;
- International charities;
- Supporting organizations that are not functionally-integrated (§509(a)(3));
- Organizations without §501(c)(3) exempt status; and
- Organizations who have filed for but not yet received their §501(c)(3) exempt status.

In addition, the following grants are not currently allowed from any DAF at CFU:

- Distributions of less than \$100;
- Distributions inconsistent with CFU's charitable purposes;
- Distributions resulting in any excess benefit, good or service to the donor advisor, fund representative, their family members, businesses in which they have substantial interests (35% or more), or any other Disqualified Person, as defined by the Internal Revenue Service. Prohibited benefits include, but are not limited to, the payment of binding pledges, event tickets, meals, dues, membership fees, sponsorships, registration fees, discounted merchandise, preferred parking and/or seating, and memberships unless the membership confers nothing of value. Distributions resulting in such benefits are impermissible even if the donor pays separately for the non-tax-exempt portion. Under current IRS rules and regulations, any Disqualified Person (including the donor advisor) who violates this rule is personally subject to an excise tax equal to 25% of the excess benefit. An additional tax in the amount of 200% of the excess benefit involved is imposed on the disqualified person if the initial tax was imposed, and there was no correction within the taxable period. Mere public recognition as a donor is not considered an excess benefit.
- Distributions to reimburse expenses, loans, compensation, grants, or other similar payments to a donor advisor, fund representative, or related party;
- Distributions to individuals or to an entity for the benefit of a specified individual (including but not limited to scholarships for specific students);
- Distributions to directly or indirectly support or oppose candidates for public office or if any portion of the distributions would be considered spent on an attempt to influence legislation or on a purpose other than the exempt charitable purposes listed in I.R.C. § 170(c)(2)(B); and
- Distributions that violate federal, state or local laws.

CFU reserves the right to refuse to make any grant if, in its sole discretion, it determines that the grant falls into any of the above listed categories, or for any reason at all. Please contact CFU's Donor Services Team if you have questions about whether a grant you are considering recommending is permitted.

Donor advisors must make a good faith effort to ensure that its gifts to and advisement concerning the Fund do not violate any federal, state or local laws, including any applicable tax laws. If at any time a donor advisor or CFU learns that any action taken by or on behalf of the Fund violates any applicable law, the donor advisor must assist CFU in taking any and all remedial steps, including but not limited to filing amended tax returns or facilitating the return of gifted funds

Donor advisors must also fully cooperate with CFU during its due diligence process, including but not limited to disclosing any relationship, interest, fact, document, or information required by CFU. CFU reserves the right to determine in its sole discretion the extent of due diligence necessary and what, if any, additional conditions it will place on grants. CFU also reserves the right to determine, in its sole discretion, whether a particular grantee has adequately established its tax classification or met any

other requirements for receiving a grant. If the extra administrative burden associated with a particular grant is too great, CFU may decline to make the grant or require an additional operating donation to cover the increased cost.

5 Investment of Assets

CFU has the responsibility and authority for the investment of the assets of each DAF. The funds are invested according to CFU's Objectives and Policies for Investment ("Investment Policy") as well as the advice and counsel of the Finance & Compliance Committee ("Committee") and any professionals retained by CFU. The donor advisor may recommend in writing a change in investment allocations once annually or upon a significant change in grant goals. If a donor advisor does not select an investment option, the fund will be placed in the Mid-Term pool.

CFU will consider recommendations by donor advisors for a DAF to be managed by an outside professional advisor; however, generally, CFU will not consider such recommendations for funds under \$100,000. In addition, CFU may impose additional restrictions on separately-managed accounts, including higher minimum balances and requiring the fund to be endowed. Moreover, CFU may revoke its decision to use an outside professional advisor at any time, at its sole discretion.

CFU reminds donor advisors that the act of investing is speculative in nature and involves substantial risk of loss. Past performance is not necessarily indicative of future results. There is no guarantee that strategies, tactics, methods, systems, indicators, or signals will result in profits or that they will not result in losses. CFU provides no representation or warranty that any fund will, or is likely to, achieve profits. CFU does not guarantee the number or amount of charitable grants for any fund. Any gain or loss resulting from the investment of fund assets will be credited or charged to the fund. The total investment return of each investment vehicle is also net of its operating expenses.

6 Endowed Funds

As per CFU's Investment Policy, all endowed gifts will be considered unrestricted unless expressly stated otherwise in the applicable fund agreement, meaning CFU may elect to invade the principal if deemed necessary by the Committee and the Board. Assets of unrestricted funds are distributed according to the terms of the Investment Policy, including the Spending Policy (Section 11 of the Investment Policy).

7 Operating Contributions and Direct Costs

CFU is a § 501(c)(3) charity committed to enriching our community by giving well, teaching others to give well, and uniting philanthropy in Utah. As a non-profit, CFU must rely on public support to cover its operating costs and its important community initiatives. Accordingly, CFU currently assesses mandatory operating contributions, generally in the form of a contribution charge and/or a balance charge, on all its funds. For more information about these operating contributions, please review CFU's Contribution Schedule. CFU reserves the right to change, amend or revoke the Contribution Schedule at any time.

Please note CFU will automatically deduct any and all operating contributions from each DAF without providing prior notice to the donor advisor.

Any and all direct costs incurred by a DAF, including but not limited to taxes, investment charges, due diligence costs, legal fees, reporting costs, or other administrative charges, will also be charged directly to the DAF. CFU may make these deductions without prior approval of the donor advisor.

8 Premium Donor Services

CFU also offers optional donor services intended to help build philanthropic acumen and capacity in Utah. Some of these additional services include:

- Personalized consultations on a donor advisor's giving goals and long-term philanthropic strategy;
- Donor impact reports;
- Assessments of prospective grant recipients;
- Customized alerts about causes and nonprofits of interest to the donor advisor;
- Educational events (workshops, panels, symposiums, etc.) on philanthropy;
- Invites to special events connecting like-minded donors;
- Custom mail service;
- Site visits to select nonprofits; and
- Updates on research, innovations, and recent trends in philanthropy.

Due to the added costs of these services, CFU only provides these services to donor advisors who opt into a higher operating donation tier. If you are interested in learning more about any of these services, please contact a member of CFU's Donor Services Team.

9 Solicitation & Fundraising

If a donor advisor would like to solicit gifts, contributions, or grants for the donor-advised fund, including from employees for a CAF, the donor advisor must first notify CFU and complete a Fundraising Application.

All funding sources and fundraising materials must be approved in writing by CFU before the fundraising event, drive, or initiative. Moreover, all fundraising materials must include the following language: "All donations will be the property of the Community Foundation of Utah. Although CFU always seeks to honor donor intent, CFU reserves the right to direct these funds elsewhere if necessary to comply with the law or to better serve their intended charitable purposes."

Donor advisors cannot provide (or allow others to provide) any excess benefits to donors or their family members in return for contributions to the DAF.

Donor advisors must make good faith efforts to comply with all state and local charitable solicitation laws in Utah and in any other jurisdictions in which it intends to solicit gifts. To that end, corporate advisors must obtain a Charitable Solicitation Permit or an Exemption with the Utah Division of Consumer Protection before commencing its fundraising initiatives. Corporate advisors must provide CFU with a copy of its Permit or Exemption on an annual basis and must notify CFU immediately if its Permit or Exemption is revoked.

A donor advisor's failure to comply with the terms of this Section may result in CFU refusing to accept the funds or, upon learning of donor advisor's failure, returning the funds to the original donor.

10 Advisory Period and Succession

The privilege of making non-binding recommendations regarding the fund shall be extended to those identified as the donor advisor in the applicable fund agreement and to those designated by the donor advisor as Additional Advisor(s) or Successor Advisor(s). The donor advisor may revoke existing Additional Advisors or Successor Advisors and/or appoint new Additional Advisors or Successor Advisors at any time upon written notice to CFU.

An Additional Advisor has the same right to make non-binding recommendations with respect to grants and investments as the original donor advisor but retains such rights only while the donor advisor continues to have his/her advisory powers and has not revoked the Additional Advisor's status. Additional Advisors may not appoint additional or replacement Additional Advisors or Successor Advisors. An Additional Advisor's rights are contingent upon the Additional Advisor first agreeing in writing to abide by the terms of the applicable fund agreement.

A Successor Advisor has the same right to make non-binding recommendations with respect to grants and investments as the original donor advisor but obtains these rights only upon the termination of the original donor advisor's rights. Unless expressly stated otherwise in the applicable donor-advised fund agreement, Successor Advisors may not appoint additional or replacement Additional Advisors or Successor Advisors. A Successor Advisor's rights are contingent upon the Successor Advisor first agreeing in writing to abide by the terms of the applicable fund agreement.

In the case of CAFs, the sole advisor is the entity establishing the fund (the "Company"). However, the Company (acting through its CEO or other duly authorized representative as per the applicable fund agreement) may designate one or more other individuals as authorized to make recommendations on its behalf, including a primary contact who will receive communications from CFU. The Company may also specify a corporate Successor Advisor. All designations must be in writing.

A donor advisor's, Additional Advisor's or Successor Advisor's relationship with the fund shall terminate upon death, incompetence, incapacitation, inactivity, voluntary relinquishment, revocation, or any other similar concluding event. CFU may also unilaterally terminate any Advisor(s)' rights at any time and for

any reason. For example, CFU may terminate advisory privileges of anyone who repeatedly or flagrantly abuses such privileges by making misrepresentations to CFU, intentionally advising grants in violation of this DAF Policy or the applicable fund agreement, subjecting CFU staff to derogatory or abusive treatment, being convicted of a crime of moral turpitude, or otherwise acting in a manner that could cause the continuation of advisory privileges to result in significant harm to CFU's reputation or tax status. Similarly, in cases of divorce or unresolved conflict, CFU may divide a fund with two or more current donor advisors or Successor Advisors into separate funds, each advised by one of the advisors in conflict. Unless the applicable fund agreement provides otherwise, CFU shall divide the assets in the fund equally.

The Advisory Period, during which time the donor advisor, Additional Advisors, and Successor Advisors may make recommendations regarding the fund, will last from the creation of the fund until the termination of all donor advisors' and Successor Advisors' relationships with the fund. Unless expressly stated otherwise in the applicable donor-advised fund agreement, at the end of the Advisory Period, CFU will reclassify all remaining fund assets as unrestricted endowed funds then continue to make grants as per the Investment Policy guidelines in a way that, in CFU's sole discretion, best honors donor intent as evidenced by that particular fund's grant-making history.

If a named Successor Advisor is unable or otherwise refuses to assume advisory rights when the donor advisor(s)' advisory rights cease, the Successor Advisor's rights will lapse. That Successor Advisor's portion will then be distributed proportionally to remaining Successor Advisors. If no Successor Advisors are available, the portion allocated to Successor Advisor(s) will be distributed proportionally as indicated in the agreement or, in the absence of any such designation, CFU will consider the Advisory Period to be at an end.

11 Termination

Both CFU and donor advisors retain the right to close a DAF at any time and for any reason. Donor advisors must notify CFU in writing of their desire to close a DAF. Upon receiving this written notice, CFU will consult with the donor advisors to get their recommendations for distributing any remaining fund assets. CFU will then transfer any outstanding balance to another CFU fund, donor-advised fund or qualified public charity, as permitted by the law, CFU's policies and CFU's charitable purposes. As always, CFU reserves the right to take any action at any time which, in its discretion, it deems reasonably necessary or desirable for the proper administration of any DAF.

12 Inactive Funds

A fund is deemed inactive if one of the following occurs:

- All original donor advisors die, resign, or are incapacitated (or in the case of corporate advisors, dissolve), and no Successor Advisor (see Section 10) has been named;

- All named or subsequently appointed Successor Advisors are unable or unwilling to serve as Successor Advisor; or
- No grant recommendations are made with respect to the fund for a period of two years and, during such period, the donor advisor and Successor Advisor(s) do not respond to CFU's attempts to contact them.

If the fund becomes inactive, CFU may terminate the applicable fund agreement, deem the Advisory Period (see Section 10) to have ended, and initiate distributions in accordance with the applicable fund agreement, or, in the absence of a succession plan, transfer fund assets to another CFU fund.

13 Confidentiality

CFU has established a Confidentiality Policy. As part of the Confidentiality Policy, CFU recognizes that protecting donor confidentiality is an essential part of providing good service to donors. CFU considers any information learned about its donors or advisors that is not otherwise publicly available to be confidential information. Employees, Board Members, and volunteers may not disclose confidential information to anyone outside CFU unless one of the following exceptions apply:

- Unless the donor requests anonymity, the names of all donor advisor may appear in CFU materials, including on its website and/or in its annual report. CFU will not publish the amount of any gift without first obtaining permission of the donor advisor.
- Names of donors of memorial or tribute gifts may be released to the honoree, next of kin, or appropriate member of the immediate family, unless otherwise specified by the donor. Gift amounts will not be released without the express written consent of the donor.
- CFU may from time to time contract with outside vendors and/or professionals for business, technology or professional services. CFU may share confidential information with these individuals if necessary for CFU to conduct its normal course of business.

14 Other CFU Policies & Amendments

All DAFs are subject to CFU's fund policies, including but not limited to this policy, the Contribution Schedule, the Investment Policy, the Gift Acceptance Policy, and the Harassment Policy. CFU may amend or revoke these policies at any time and for any reason upon written notice to the donor advisor. Copies of these policies are available upon request.

15 Tax, Legal and Financial Advice

CFU will not provide Donor Advisor(s) with tax, legal or financial advice. Although CFU does engage tax, legal and financial professionals to advise CFU, these experts are engaged solely for the benefit of CFU, including its component funds, and not for the donor advisors. Accordingly, CFU recommends that donor advisors engage his/her own tax, legal, and financial experts. Donor advisors are also wholly responsible for accurately filing their income tax returns and any other required tax documents, for

responding to IRS inquiries, and for representing and defending themselves in any dealings or proceedings with the IRS.

16 Conflict of Terms

In the event of an inconsistency between the DAF Policy and any policies, procedures, terms, or conditions appearing elsewhere in connection with any fund, the terms of the applicable fund agreement, as amended and as interpreted by CFU, shall govern first with this DAF Policy, as amended and as interpreted by CFU, governing second. CFU further reserves the right to take any actions at any time which, in its discretion, it deems reasonably necessary or desirable for the proper administration of any fund at CFU.