

Adopted September 21, 2022

Donor-Advised Fund Policies and Procedures

The intent in establishing these policies and procedures is to provide guidance as to the acceptance, establishment, operation, and succession of donor-advised funds at the Orange County Community Foundation (the “Community Foundation”). Donor-advised funds are established with a minimum of \$25,000 by an individual, family, or corporation (the “Founder”) who wishes to create a named fund, serve as an advisor and make requests for distributions to charitable organizations. In addition, the Community Foundation also offers a variety of other funds including scholarship funds, field of interest funds, nonprofit endowment funds and designated agency funds.

Establishment of Donor-Advised Funds

Requirements to Open a Fund: To open a donor-advised fund (the “Fund”), the Founder must sign a Fund agreement with the Community Foundation establishing the Fund and setting the parameters of the Fund. Once the initial gift has been received, the Fund is considered activated. There is no cost to establish a Fund or to revise Fund objectives over the life of the Fund.

Fund Agreement: The Fund Agreement is signed by OCCF’s Executive Vice President/Chief Operating Officer and the Founder of the Fund. It establishes who makes recommendations for grants from the Fund (“Advisors”), whether there shall be any successor advisors of the Fund, and ensures that the Founder is aware of and understands OCCF’s Donor-Advised Fund Policies and Procedures. Changes to the Fund name, Fund Advisors and philanthropic guidelines can be made at any time by the Founder, subject to acceptance by the Community Foundation.

Types of Funds: Funds may be established as either Non-Endowed, meaning that both the principal and any earnings of the Fund may be distributed, or Endowed, meaning that distributions can be made based on an annual payout approved by OCCF’s Board (currently 4.5% based on a 16-quarter rolling average balance).

Contributions to a Fund

The Community Foundation is able to receive a wide variety of assets into donor-advised funds. Some of these assets, like publicly-traded securities, can be easily transferred to a donor-advised fund directly from a brokerage account. Other assets, such as LLC interests, family limited partnerships, S-Corp stock, and real estate interests require additional consideration and

planning. All assets transferred to an OCCF fund are considered an irrevocable gift to a tax-exempt public charity. Contributions can be made by the Founder or any other contributor who may wish to add to the Fund.

Variance Power

As required by law, all assets contributed to a fund are irrevocable gifts to OCCF and legal control and responsibility for the Fund rests with OCCF as set forth in its bylaws. OCCF has the authority to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to a specified organization if, in the sole judgment of OCCF's Board of Governors, such restriction or condition becomes unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community served. All funds accepted by OCCF are subject to this variance power.

Investment of Assets

The Community Foundation has the sole responsibility and authority for the investment of the assets of its component funds, however OCCF offers several investment options for non-endowed funds based on anticipated needs for granting to charities.

Some donors elect to keep a portion of their Fund's assets in our short-term cash pool for immediate granting. Many Fund Advisors choose to participate in our long-term investment pool or our ESG Pool with all or a portion of their Fund's assets. The long-term investment pool or ESG options are designed for individuals who desire to generate returns to support their longer-term grant-making objectives. Both investment pools are balanced portfolios designed to maximize total returns while minimizing down-side risk.

The investment of OCCF's assets is prudently guided by an Investment Committee with the support of an independent investment consultant, Cambridge Associates. A detailed report on our investment allocations, specific investment managers and historical returns is available upon request.

Grantable Amount Process for Endowed Funds

Each year in accordance with the Community Foundation's Board-approved payout policy, endowed funds are allocated an annual "grantable amount" which is recorded in a separate grantable sub-account within the endowed Fund. Funds allocated into the grantable account are immediately available for granting and will remain in the account until recommended by the Fund Advisor for granting. Each annual grantable amount, as well as undisbursed grantable amounts from prior years, will be retained in the grantable account and be available to the Fund Advisor for granting in current or future periods. The grantable amount remains invested in OCCF's long-term investment pool unless otherwise requested by the donor based on their anticipated needs for granting.

Fees and Statements

There is no initial charge to set up a fund at the Orange County Community Foundation. Our Board of Governors has established a Foundation Support Fee for all funds which supports the operations of the Community Foundation. Foundation Support Fees help to cover the costs associated with administering donor-advised funds, and also allow the Community Foundation to strengthen and support the Orange County community.

Once a Fund is established, the Foundation Support Fee is calculated as a percentage of the Fund's balance and is assessed on a quarterly basis. The Foundation Support Fee varies depending on fund type and size and is based on the highest balance of the fund during the previous 12-month period. A schedule of current Foundation Support Fees is available upon request. Quarterly statements are available to Fund Advisors through our donor portal and will include all quarterly contributions to the Fund, investment earnings, distributions from the Fund, and applicable investment and Foundation Support fees. Quarterly statements can be mailed upon request.

Distributions from a Donor-Advised Fund

Grant Recommendations: Fund Advisors may make grant recommendations of \$250 or more to any eligible public charity by submitting a charitable distribution recommendation form via mail, fax, on-line through OCCF's donor portal, or by communicating with their staff liaison at OCCF.

- OCCF staff will do all requisite due diligence on prospective grant recipients to ensure that they are organized and operated for charitable purposes typically as described in Section 170(b)(1)(A) of the Internal Revenue Code.
- Qualified charities generally include those described in Section 501(c)(3) of the Internal Revenue Code that are not also private foundations, and certain governmental organizations. These include charitable, religious, and educational organizations, as well as school districts, public libraries and other units of government.
- Examples of organizations not eligible for grants from a donor-advised fund include fraternal orders, organizations whose primary purpose is lobbying, cemetery associations and funds set up to provide emergency relief to specific individuals or families. If an advisor is concerned about a particular recommendation, the Community Foundation can pre-screen an organization for eligibility.
- Prospective grant recipients must operate without illegal discrimination on the basis of race, religion, gender, sexual orientation, age, national origin or disability.
- Approved grants are processed weekly and checks are mailed directly to the recipient charity and are accompanied by an award letter outlining the grant details including recognition preferences and any specific purpose of the grant. Per IRS regulations, grant checks cannot be sent directly to the Fund Advisor.

Grant Recognition: OCCF staff works closely with Fund Advisors to ensure that they receive full recognition for their gifts. Unless other arrangements have been made (e.g. anonymity requested), the grant letter will indicate that the contribution is from “The XYZ Fund of Orange County Community Foundation” and that it has been given upon the recommendation of the named Advisor. The recipient organization is encouraged to recognize the gift to the Advisor. If the organization sends acknowledgement for the gift to OCCF, we will forward to the Fund Advisor.

Grants to International Organizations: Fund Advisors may make grant recommendations to international organizations. Additional due diligence is required for international granting, so Advisors should consult with their OCCF staff liaison if they wish to recommend grants to international organizations.

Grant Restrictions and Prohibitions (IRS regulations): While making grants through an OCCF Fund is a flexible process, there are a few things donor-advised funds cannot support. Grants cannot be awarded to a named individual; for non-charitable purposes; for political contributions or to support political campaign activities; or for any purpose that would provide benefits, goods or services to a donor of the Fund, the Fund’s Advisor(s), other related parties or businesses they control. A Fund Advisor is subject to IRS penalties if the Fund’s donor(s), advisor(s) or other related parties receive benefits, goods or services in connection with a grant recommendation.

Events and Memberships: To comply with IRS regulations, grants from a donor-advised fund cannot result in the donor, advisors or any related parties receiving an exchange of goods or services or any personal or material benefit that is not provided to the general public (for example newsletters). Prohibited benefits include tickets to events, memberships, meals, preferred parking, preferred seating, discounted merchandise or other preferential treatment from a recipient organization.

Grants to Individuals: The IRS prohibits grants to individuals such as emergency hardship grants, disaster relief grants, and scholarships through donor-advised funds. OCCF can help identify the appropriate type of Fund to make these types of awards. OCCF’s Sr. Director of Donor & Community Engagement, Carol Ferguson (cferguson@oc-cf.org) can provide detailed guidance on the appropriate protocols for individual grants and scholarships.

Payments and Expenses: Donors, advisors or any related parties may not receive grants, loans, compensation or similar payments (**including expense reimbursements**) from donor-advised funds.

Fundraising: Donors, Advisors or any related parties may not conduct fundraising events (i.e. golf tournaments, auctions, raffles, dinners) through their OCCF Fund. OCCF staff can provide guidance and information on other related organizations that support events on behalf of donor-advised funds.

Fund Activity: A Fund is considered active when there is regular communication between the Fund Advisors and OCCF regarding the existence and purpose of the Fund, and that granting

activity from the Fund occurs in alignment with the Fund's purpose and objectives. Examples of Fund activity include, but are not limited to, the following:

- **Development of a Giving Plan:** A plan may include the philanthropic goals and a giving strategy for the Fund, with the timing of grants determined in the long-term plan. A plan may include waiting a number of years before making grants as the Fund Advisor may want to build the Fund to a certain size, or the timing may be determined by specific life events (i.e. retirement, health, travel).
- **Granting Activity:** Grants are made in a timely manner in alignment with the purpose and objectives of the Fund, generally at least annually though timing can vary based on the purposes of the Fund.
- **Charitable Legacy:** Fund Advisors may build a Fund over time with the intent of leaving a charitable legacy for their children.
- **Fund illiquidity:** A Fund is considered active if the donated assets are illiquid for a limited period of time.
- **Significant Life Events:** A Fund is considered active if the Fund Advisor experiences a significant life event that diverts time and attention needed to focus on philanthropy.

Fund Inactivity: A Fund can become inactive if a Fund Advisor is no longer willing or able to advise on distributions from the Fund, and no philanthropic guidelines exist or Successor Advisors are named. When this occurs OCCF's Board of Governors will advise on distributions from the Fund.

A Fund can also become inactive if no gifts are received and no grants are recommended in a three-year period. The Advisors may be notified by OCCF regarding the inactivity and given a minimum of 120 days to respond regarding their plans for the Fund. Failure to respond within the designated time frame may result in OCCF declaring the Fund to be inactive. If there are no established philanthropic guidelines, the use of the remaining balance of the inactive Fund will be determined by OCCF's Board of Governors.

Fund Closure: A Fund Advisor may recommend closing a non-endowed fund by granting up to 100 percent of the Fund balance to a qualified charitable organization, including any of OCCF's funds (e.g., field of interest funds, endowment funds, operating funds). Such recommendations must be received in writing and, if approved, funds will be disbursed in accordance with OCCF's current policies, applicable laws and regulations.

Marriage Dissolution: The following procedures will be implemented when a legal action for divorce, separation or annulment is pending between spouses who have jointly established a donor-advised fund and/or the spouses serve as the only Advisors to the Fund.

- I. Should neither party contact the Community Foundation and advise of the action, and as far as the Community Foundation remains unaware, no action will be taken.

- II. Upon receiving notice of such action, the Community Foundation will initiate the following:
- A. Should either party contact OCCF and advise of the divorce, OCCF will suspend processing any grant distribution recommendation for such Fund(s) unless and until the spouses both agree in writing to approve the grant distribution recommendation, or suspend processing any grant distribution recommendations for such Fund(s) unless and until the spouses have jointly agreed in writing to an alternative procedure, acceptable to the Community Foundation, to provide for the future administration of such Fund(s).
 - B. Subject to the approval of the Community Foundation, the spouses may jointly authorize the Community Foundation to bifurcate any Fund(s), designating one spouse or other Successor Advisor to serve as the Advisor to one of the successor Fund(s) and designating the other spouse or Successors Advisor to serve as the Advisors to the other successor Fund(s) created as a result of bifurcation.

Funds to be bifurcated need to have at least the minimum required to set up two separate Funds (\$50,000). If the Fund balance is at least \$50,000 separate individual funds will be established with an equal amount allocated to each Fund.
 - C. If the Fund balance is less than \$50,000, the spouses may jointly grant the remaining funds to another existing fund or any other charitable entities of their mutual choice.
 - D. In the event that after three years, the spouses cannot jointly agree as provided above and no divorce decree, order of legal separation, order of annulment, property settlement agreement, agreement of the parties or other legal order has been entered or approved which would otherwise resolve the issue to the satisfaction of the Community Foundation, the Advisors may be notified by OCCF regarding the inactivity and given a minimum of 120 days to respond regarding their plans for the Fund. Failure to respond within the designated timeframe may result in OCCF declaring the Fund to be inactive. If there are no established philanthropic guidelines, the use of the remaining balance of the inactive Fund will be determined by OCCF's Board of Governors.

Succession of Donor-advised Funds

Naming Successor Advisors: In the established donor-advised fund Agreement, the Founder may name Successor Advisors who will have the authority to make grant recommendations if the Founder and/or other Advisors are no longer willing or able to advise. Successor Advisors may be named at any time after Fund establishment through a Fund Amendment.

Establishment of Intent: Each Founder may create philanthropic guidelines to carry on the intent of the Fund should they no longer be willing or able to make recommendations. If there are no Advisors willing or able to act and there are no established philanthropic guidelines for a Fund, then the remaining balance of the Fund will become a part of the Orange County Endowment, a fund devoted solely to meeting needs in Orange County under the direction of OCCF's Board of Governors.

Definition of Terms

Donor Advised Fund: A charitable fund administered by a third party and created for the purpose of managing charitable donations on behalf of an organization, family, or individual.

Fund Founder: Founders are those who establish the Fund and have the right to revise certain terms of the Fund agreement, such as the name of the Fund and who may serve as Fund Advisors.

Fund Advisor: Advisors are those who have the right to make recommendations on grant distributions from the Fund.

Successor Advisor: Successor Advisors can make recommendations on grants from the Fund when initial Fund Advisors resign or pass away. If no Successor Advisors are named, OCCF will administer the Fund according to the current or established Fund provisions.

Qualified Charitable Organization: an organization that has been granted tax-exempt status by the IRS and is eligible to receive tax-deductible charitable contributions.