DONOR ADVISED FUND GUIDELINES

Advised funds are one of the many different types of funds administered by the Unity Foundation. Through advised funds, living donors support and participate in the charitable and philanthropic activities of the foundation.

The Foundation must adhere to Internal Revenue Service (IRS) regulations and the Pension Protection Act of 2006 (PPA). Section 1231 regarding recommendations from advised fund donors. IRS rules stipulate a donor cannot make a tax deductible contribution and at the same time retain future control over the contribution. However, the law expressly recognizes the right of living donors to make grant recommendations from time to time. In all cases, the Board of Directors of the Unity Foundation retains the right to final determination of the use of funds.

Prohibited Grants

- Grants from donor advised funds will not be made to pay dues for membership, to discharge or satisfy legally enforceable obligations or personal pledges which have been made by the donor, or for any other purpose from which the individual will receive some benefit, actual or implied. Examples include: ticket purchases to a fund raising dinner or greens fees for a charity golf tournament.
- Grants or payments from donor advised funds will not be made to individuals or for scholarships to benefit a particular individual.
- Grants or payments from donor advised funds will not provide donors, advisors, or related parties loans, compensation, or similar payments including expense reimbursements.

Recommendations for grants shall be made in writing to the Unity Foundation and may be made for general support of the recipient organization or for a particular program or activity. Examples include: museum exhibits, laboratory equipment, a neighborhood project, a child care program, or to underwrite a particular development effort. Grants must be a minimum of $100. Recommendations can be approved in a timely manner by the foundation’s Executive Committee or the Board of Directors.

When recommendations are received from advised fund donors, staff members will determine the IRS status when not familiar with an organization, because grants may not be made to groups that do not qualify as 501(c)(3) organizations included in the Pension Protection Act. Expenditure responsibility will be required if the organization is not a government entity or 501(c)(3), or if it is classified as a private foundation. "Expenditure responsibility" within the meaning of section 4945(h) of the Code notes that the Foundation must see that the grant is spent solely for the purposes for which made; obtain full and complete reports on how the funds are spent; and make full and detailed reports with respect to such expenditures. If a recommended organization fails to provide this information or is deemed a prohibited grant under the Pension Protection Act of 2006, the Board of Directors will not issue the grant.

Gifts to Donor Advised Funds, cash or non-cash are under the exclusive legal control of the foundation.
Business Interests as Gifts to Donor Advised Funds: The Foundation will adhere to donor advised fund guidelines and rules as established by the Pension Protection of 2006. Such adherence includes particularly and specifically all areas of the act related to excess business holdings as they apply to donor advised funds.

The objective of the Unity Foundation is to make grants to benefit the people of our local community. However, there are many important institutions outside the local area which have a state or nationwide impact and which benefit area residents. Examples are major museums, hospitals, and musical organizations. Gifts to these and other long-time family supported charities in other communities are acceptable.

A letter accompanies all grant checks from an advised fund. The letter specifically states the name of the fund from which the grant is made in addition to the purpose of the grant. Grants can also be made anonymously if the donor desires. A copy of each grant letter is sent to the donor. When the grant is for $5,000 or more, the recipient may be asked to complete an evaluation form. This form may be shared with the donor in the belief that it is just as important to review a grant after it has been made as it is beforehand.

It is anticipated that the donor will develop a working relationship with the foundation's staff. Staff will, from time to time, consult with the donor about specific proposals the foundation receives which have been investigated and are considered deserving of support. These proposals are in the fields of interest identified by the donor and the expectation is that some of these proposals may be funded through the advised fund. The foundation will keep the donor and other advisors informed about the activities of the fund through ongoing informal communications and periodic financial reports.

Only the donor, the donor's spouse, and other advisors designated at fund inception advise on distributions from the fund. The advisory relationship terminates with the death of the donor, or the appointed advisor, or by Fund Agreement. After death, the foundation becomes the advisor.

After an advised non-permanent fund has been established with the Unity Foundation, the donor is invited to use the foundation's various resources to further his or her philanthropic interests. At any time, a non-permanent advised fund can become an endowment fund at the designation of the donor. Or, a donor may wish to maintain a liquid advised fund and a permanent endowment fund. For example, $5,000 could be transferred each year from the advised non-permanent fund to build the endowment fund. Establishment of endowments in the foundation is encouraged in the form of a gift by will so the donor's charitable interests will be met in perpetuity. In the alternative, pour-over gifts by will to a fund established during the donor's lifetime can also serve to perpetuate the purposes of the fund.
Frequently Asked Questions about Donor Advised Funds

What payments are prohibited? Distributions from a donor-advised fund to an individual are prohibited. So too are distributions to any organization if not for a charitable purpose. Other payments that are not prohibited but that will be “taxable distributions” unless expenditure responsibility is followed include:

- an organization that is not described in section 170(b)(1)(A) – notably non-charities and private non-operating foundations
- a type III supporting organization that is not “functionally integrated”
- a supporting organization (even a “functionally integrated” type III) if the organization that is being supported is controlled by either the donor or an advisor appointed by the donor

Can a donor-advised fund make a grant to a scholarship fund, a designated fund or any another fund at the sponsoring organization? Yes, all payments from a donor-advised fund to the sponsoring charity are explicitly permitted without the need for expenditure responsibility. This includes payments to any other fund at the organization, including to other donor-advised funds.

Can a donor be reimbursed for expenses incurred hosting a fundraising event? No, this section prohibits all distributions to individuals from advised funds, regardless of the purpose. Additionally, changes to the intermediate sanctions rules that take effect the date HR 4 is enacted prohibit expense reimbursement to donors, advisors and related parties for a donor-advised fund. The charity may choose to reimburse the individual out of unrestricted funds, but any effort to circumvent the rule by making a distribution from the general funds of the charity followed by a distribution form the donor-advised fund back to the charity will likely trigger penalties.

Can a donor-advised fund pay expenses directly to the caterer for a fundraising event? We, through the Council on Foundations, are seeking guidance on whether the prohibition on distributions to individuals includes payments to vendors, who are individuals, for goods and services and whether expenditure responsibility is required for payments to corporate vendors, and if so, what form expenditure responsibility should take.

Can a donor-advised fund award a scholarship grant? No. Grants to individuals are prohibited out of donor-advised funds. However, grants to individuals out of funds other than donor-advised funds are permissible.

What are the penalties? If a taxable expenditure is made, the charity that administers the fund must pay a penalty equal to 20% of the expenditure. Further, any fund manager who agrees to make the distribution “knowing that it is a taxable distribution” must pay a 5% penalty. These penalties may be abated (excused) for good cause.