



## DONOR-ADVISED FUND POLICY & GUIDELINES

Adopted by the Nebraska Community Foundation Board of Directors December 13, 2011  
Amended August 22, 2017

### I. Purpose

The purpose of this Donor-Advised Fund Policy & Guidelines (“Policy”) is to guide the Nebraska Community Foundation (“NCF”) staff and donors in complying with the law applicable to donor-advised funds (“DAFs”) and with NCF administrative policies while achieving donors’ charitable goals.

### II. Scope

This Policy applies to all funds or accounts of the Nebraska Community Foundation that meet the federal tax law definition of a “donor-advised fund”. Pursuant to federal tax law, a fund will be a donor-advised fund if it has all three of the following characteristics:

- The fund is separately identified with reference to the contribution(s) of a donor or donors
- The fund is owned and controlled by NCF (this is true for all affiliated funds)
- The donor or persons appointed by the donor have, or reasonably expect to have, the privilege of providing advice with respect to the fund’s investments or distributions

### III. Establishing Donor-Advised Funds

A DAF will be created with an affiliated fund agreement between the donor and NCF. Donors may be individuals, families, businesses or charitable organizations. The fund agreement will name advisor(s) who may recommend grants from the DAF. A DAF may be nonpermanent (all contributions may be expended), permanently endowed (invested with only a portion of the earnings and appreciation available for expenditure, in accordance with the NCF Investment Policy), a term endowment (functions as an endowment, but to be expended in full upon the passage of a stated period or the occurrence of a particular event) or may have separate accounts in more than one of these categories. A minimum contribution of \$25,000 is required to establish a DAF.

The donor may name the fund, subject to approval by the Nebraska Community Foundation. Unless the donor requests that a fund be anonymous, it will be listed by name in NCF’s annual report. The DAF and its advisor will be identified to grant recipients unless the advisor requests anonymity on a case-by-case basis.

### IV. Contributions to Donor-Advised Funds

Contributions to a fund are irrevocable. The assets of DAFs are owned and controlled by the Nebraska Community Foundation. Contributions may be made in many forms, including cash, securities, real estate and retirement plan assets, subject to acceptance by NCF. The NCF Gift Acceptance Policy & Guidelines provides information regarding the forms that gifts can take. Donors may establish or add to a DAF through a bequest or other estate gift. Contributions may be added at any time and in any amount, subject to acceptance by NCF.

Excess Business Holdings

The Pension Protection Act of 2006 (“PPA”) precludes DAFs from holding more than a minor interest in a business when the donor, fund advisor or a related party (“disqualified person”) also holds an interest in the business. This is known as the “excess business holdings” rule. Generally, the excess business holdings rule states that a DAF and persons who are disqualified persons with respect to the DAF may not together hold more than a twenty percent interest in a business enterprise (twenty percent of the voting stock of an incorporated business; twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity; or any interest in a sole proprietorship or unincorporated entity). DAFs receiving gifts of interests in a business enterprise after the effective date of the PPA (August 17, 2006) will have five years to divest holdings that are above the permitted amount.

NCF will identify any potential gift to a DAF that would qualify as an excess business holding and will notify the prospective donor of the PPA requirements prior to the contribution. NCF will monitor any such holding and will dispose of any excess business holding prior to the five-year time limit (or within ten years if the Treasury Department grants an additional five-year holding period), as required by law.

**V. Distributions from Donor-Advised Funds**

Donor advisors may recommend grants to qualified charitable organizations. Qualified charitable organizations generally include those organizations described in Section 501(c)(3) of the Internal Revenue Code that are not private foundations, and certain governmental entities. These include charitable, religious and educational organizations, as well as school districts, public libraries and other units of government. In general, NCF does not allow grants to non-charitable organizations from DAFs. Given that NCF serves Nebraska, it is expected that the majority of grant dollars from each DAF will benefit Nebraska charitable organizations.

Donor advisors may make grant recommendations by completing, signing and submitting a “Donor-Advised Fund Grant Recommendation Form” to NCF. The Nebraska Community Foundation, in accordance with tax law, retains final discretion over disbursements from all donor-advised funds. The minimum amount for a grant from a donor-advised fund is \$250.

Once a grant recommendation is received, NCF staff will perform due diligence to verify that the organization is a qualified charity. An officer of NCF will sign the DAF Grant Recommendation Form to indicate approval of a grant.

Grant checks will be accompanied by a letter from NCF indicating the DAF that is the source of the grant (unless anonymity has been requested) and confirming that no benefits have been or will be provided to the donor, advisor or related parties in connection with the grant.

Grant Restrictions and Prohibitions

IRS rules preclude the following types of distributions from DAFs:

- A DAF grant cannot be used to satisfy all or a portion of any pledge or other financial obligation of the donor, advisors or any related parties. Advisors may recommend that a grant be paid out over multiple years, subject to NCF’s grant approval and annual due diligence.
- Grants from a DAF cannot result in the donor, advisors or any related parties receiving goods or services or any benefit that is more than incidental. Prohibited benefits include event tickets, memberships, meals, preferred parking, preferred seating, discounted merchandise or other preferential treatment from a donee organization.

- DAFs may not make any payments to individuals, such as scholarships, emergency hardship grants, disaster relief grants, or reimbursement of expenses. This includes payments directly to an individual or to an entity for the benefit of a specified individual (e.g., to a university for a scholarship for a particular student). If donors wish to grant scholarships, a different type of fund can be established.
- Donors, advisors or any related parties may not receive grants, loans, compensation or similar payments (including expense reimbursements) from a DAF.

#### Expenditure Responsibility

Pursuant to IRS rules, certain types of grants from DAFs require the exercise of “expenditure responsibility”. Expenditure responsibility is a process designed to ensure that a grant is used for charitable purposes and that NCF maintains appropriate oversight and documentation of certain grants from DAFs. Expenditure responsibility is required for grants to (1) organizations not described in Internal Revenue Code Section 170(b)(1)(A); (2) type III supporting organizations that are not functionally integrated with the supported organization; and (3) supporting organizations of any type if the supported organization is controlled by the donor, advisor or a related party.

In general, NCF will not make grants from DAFs that require expenditure responsibility. Because circumstance may occasionally warrant such a grant, the NCF staff shall establish procedures for and shall exercise expenditure responsibility in compliance with the law.

#### Fund Activity Requirement

A DAF is considered active when there is regular communication between the donor advisors and NCF. Activities that would deem a fund “active” include the following:

- Regular grant recommendations – Donor advisor generally recommends grants at least annually.
- Development of a philanthropic program or long-term giving plan in coordination with NCF staff – Donor advisor consults with NCF and/or performs research to determine the types of grants that best align with his/her interests and/or community needs.
- Project grants – Donor reduces the frequency or size of grants in order to make a large grant or series of grants for a specific project, and informs NCF of this plan.
- Transition of donor advisors and/or special circumstances – A DAF will be considered active in the absence of grant recommendations during a period in which the donor is incapacitated; there is a transition to successor advisors (for example, upon the death of donor); during the estate settlement process for a DAF funded by a planned gift; or other special circumstances.

If a DAF is not active as defined above for more than three years, NCF staff will take steps to activate the fund. These steps may include:

- Attempting to contact the donor advisors at least twice annually for two years to encourage them to resume grant recommendations.
- If outreach to donor advisors does not result in activity, appointing new advisors for the DAF.