

**POLICIES AND PROCEDURES FOR ESTABLISHING AND OPERATING  
COMPONENT FUNDS (OTHER THAN DAFs)  
COMMUNITY FOUNDATION OF UTAH**

The Board of Directors (“Board”) of the Community Foundation of Utah (“CFU”) has authorized the establishment of many types of component funds. This document (“General Fund Policy”) sets forth CFU’s policies and procedures for establishing and operating these funds, with the exception of donor-advised and corporate-advised funds which are subject to a separate policy document. This General Fund Policy may be amended by the Board at any time and for any reason.

**1 Component Funds at CFU**

Component funds are established when a person or legal entity gifts or transfers money or property to CFU. Each component fund 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 and distributions out of the component fund 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 component fund. Component funds 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 component fund is a component part of CFU and is subject to the Governing Documents, notwithstanding any provision to the contrary contained in this General Fund 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 component fund as a component part of CFU.

All gifts to component funds 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.

## **2 Fund Advisors; Authorized Representatives; Project Managers**

Funds must at all times have a designated individual who is not an employee at CFU, who will serve as the primary contact for the fund, and who will make advisory recommendations on behalf of the fund. In the case of an agency endowment, this individual is known as the “Authorized Representative.” In the case of a fiscal sponsorship, this individual is known as the “Project Manager.” The current fund advisor may designate an additional or replacement fund advisor at any time upon written notice to CFU. The Board of Directors of an organization may also designate an additional or replacement fund advisor at any time upon written notice to CFU. In the event of a conflict between the current fund advisor and the Board of Directors of an organization, the designations of the Board of Directors of an organization will govern.

## **3 Fund Contributions & Minimums**

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

CFU has established minimum amounts for establishing a component fund at CFU. This amount varies depending on the type of fund. For more information, please refer to the Contribution Schedule. This minimum initial gift can be given at one time or incrementally over a three-year time period. Fund advisors will not be able to recommend grants or receive distributions 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 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”). Donors are responsible for preparing any and all instruments necessary to transfer the assets to CFU. Moreover, for many non-cash gifts, donors will be required to provide additional tax documents, including but not limited to Form 8283, for which donors may need to obtain a qualified appraisal at his/her own expense. CFU will not provide valuations for any gift.

Once established, non-endowed component funds must maintain a minimum balance of \$2,500 at all times. If a fund drops below this minimum, CFU may, at its sole discretion, close the fund and transfer the balance to another CFU fund.

## **4 CFU Variance Power; Distributions**

CFU welcomes the involvement and recommendations of fund advisors, fund representatives, Authorized Representatives, and Project Managers with respect to distributions from the applicable

component funds, but such recommendations are advisory only. Fund advisors, fund representatives, Authorized Representatives, Project Managers, and donors are not allowed to make any binding restrictions on gifts to any of CFU's component funds.

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

CFU reserves the right to determine the extent of due diligence necessary and any additional conditions to be satisfied before it will make a distribution to any organization, including whether to restrict the distribution for a particular purpose. CFU also reserves the right to determine, in its sole discretion, whether a particular recipient has adequately met any requirements for receiving the distribution. If the extra administrative burden associated with a particular distribution is too great, CFU may decline to make the distribution or require an additional administrative contribution to cover the increased cost.

Moreover, all grants and distributions from CFU's component funds 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 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 distributions from component funds must also be ratified by the Board.

## **5 Prohibited Distributions**

The following distributions are not currently allowed from any component fund at CFU:

- Distributions inconsistent with CFU's charitable purposes;
- Distributions resulting in any excess benefit, good or service to any 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, 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.
- For field of interest funds, distributions to entities that do not qualify as public charitable organizations under I.R.C. §§ 501(c)(3) and 509(a);

- Distributions to individuals or to any entity for the benefit of a specified individual, unless (for fiscal sponsorships) deemed a valid accounts payable or (for scholarship funds or emergency relief funds) selected by a committee in compliance with the applicable IRS rules and regulations;
- 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 distribution if, in its sole discretion, it determines that the distribution falls into any of the above listed categories, or for any reason at all, in its sole discretion. Please contact CFU's Program Coordinator if you have questions about whether a grant you are considering recommending is prohibited.

## **6 Investment of Assets**

CFU has the responsibility and authority for the investment of the assets of each component. 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 fund advisor may recommend in writing a change in investment allocations once annually or upon a significant change in grant goals. If a fund advisor does not select an investment option, the fund will be placed in the Mid-Term pool.

CFU reminds fund beneficiaries and fund 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.

## **7 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).

## **8 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 component fund, including but not limited to taxes, investment charges, due diligence costs, legal fees, reporting costs, or other administrative charges, will be charged directly to the component fund. CFU may make these deductions without prior approval of any donor, fund advisor, fund representative, Authorized Representative, or Project Manager.

## **9 Solicitation**

If a fund advisor would like to solicit gifts, contributions, or grants for the fund, including from employees, the fund 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."

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

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, any organization or entity must obtain a Charitable Solicitation Permit or an Exemption with the Utah Division of Consumer Provision before commencing its fundraising initiatives. Organizations and entities 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 fund advisors failure to comply with the terms of this Section may result in CFU refusing to accept the funds or, upon learning of the failure, returning the funds to the original donor.

## **10 Succession**

If CFU determines for whatever reason that it must close the fund, or if the original Sponsored Organization (for fiscal sponsorships) ceases to exist or the original Organization (for agency endowments) ceases to exist or ceases to become a Qualified Public Charity as defined by the applicable fund agreement, CFU will make good faith efforts to administer, distribute or transfer the funds in a manner that best represents the original donor intent, subject to the CFU's variance power.

To help better inform CFU about donor intent, a fund advisor, fund representative, Authorized Representative, or Project Manager may designate a replacement Successor Beneficiary at any time upon written notice to CFU. In the event that a Successor Beneficiary is not available or is not eligible to receive funds, CFU shall make good faith efforts to devote any remaining assets in the fund exclusively for charitable purposes that:

- (1) Are within the scope of the charitable purposes of CFU's Articles of incorporation; and
- (2) Most nearly approximate, in the good faith opinion of CFU's Board of Directors, the original purpose of the fund.

## **11 Termination**

Both CFU and fund advisors retain the right to close a component fund at any time and for any reason. Fund advisors must notify CFU in writing of their desire to close a fund. Upon receiving this written notice, CFU will consult with the fund advisors to get their recommendations for distributing any remaining fund assets. CFU will then transfer any outstanding balance to another CFU fund, component 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 component fund.

## **12 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.

### **13 Other CFU Policies & Amendments**

All component funds 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.

### **14 Tax, Legal and Financial Advice**

CFU will not provide fund advisors, fund representatives, or organizations 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. Accordingly, CFU recommends that advisors, representatives, and organizations engage his/her/its own tax, legal, and financial experts. Organizations and 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.

### **15 Conflict of Terms**

In the event of an inconsistency between this 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 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.