

**AMENDED AND RESTATED  
KOSCIUSKO COUNTY COMMUNITY FOUNDATION, INC.**

**RESOLUTION AFFIRMING PROCEDURES FOR ESTABLISHING DONOR ADVISED  
FUNDS AND ESTABLISHING DUE DILIGENCE POLICY FOR  
THE ADMINISTRATION OF DONOR ADVISED FUNDS**

**WHEREAS** the Kosciusko County Community Foundation, Inc., a charitable organization organized as an Indiana not-for-profit corporation, offers and administers donor advised funds as a philanthropic giving option for individuals, families, groups, and businesses; and

**WHEREAS** the Kosciusko County Community Foundation, Inc., wishes to affirm its procedures for establishing donor advised funds and wishes to adopt a formal policy regarding the administration of donor advised funds held by the community foundation;

**NOW THEREFORE**, the Board of Directors (hereinafter the "Board") of the Kosciusko County Community Foundation, Inc. hereby delegates the following responsibilities regarding the establishment and administration of donor advised funds held by the Foundation to the CEO and to other staff members designated by the CEO:

1. to fully inform and educate all current and future donors and advisors to donor advised funds that gifts, either cash or noncash, once accepted are irrevocable and under the legal control of the Foundation; and
2. to define the following:
  - a. Donors as the initial contributors to the donor advised fund;
  - b. Advisors are those whom the donor appoints or designates to have advisory privileges to recommend grants; and
  - c. Related Persons Parties – The term includes both a donor or advisor's family members and businesses they control:
    - i. Family Members – An individual's parents, grandparents, great grandparents, spouse or qualified domestic partner, siblings (whether whole or half-blood), children (whether natural, adopted or step), grandchildren, great grandchildren and the spouses of all of the above.
    - ii. Controlled Businesses – Corporations, partnerships, and trusts or estates if the donor or advisor and family members own more than 35 percent of the total combined voting power (corporations), 35 percent of the profits interest (partnerships), or 35 percent of the beneficial interest (trusts or estates).
  - d. Inactive Funds – A fund where there are no remaining advisors (due to death, incapacitation, resignation, or unwillingness to serve as advisor), or a fund that has had no grant recommendations from advisors in three or more years. Exceptions to this definition include: 1) the fund's advisor has

expressed a long-term giving plan aimed at building the fund's balance to ensure grantmaking during the advisor's retirement and/or other anticipated income change, or 2) the fund's advisor has expressed that they are deferring grantmaking for a set number of years in order to make a larger grant for a specific project in the future, or 3) the fund advisor has expressed that they are building the balance of a fund to leave for the next generation to advise. This period is not to exceed 10 years.

3. no grants from donor advised funds may be made to the donor, advisors or related parties.
4. donors are limited to naming one successor generation of advisors, unless otherwise approved by the Community Foundation Board of Directors.
5. to fully inform and educate all current and future donors and advisors to donor advised funds of the Foundation's Policy for the Acceptance of Donor Advised Funds Gifts which states that the Foundation shall not accept any gift of an interest in a business enterprise for a Donor Advised Fund that would subject the Foundation to tax under section 4943 of the Internal Revenue Code, concerning "excess business holdings." Any proposed gift that would result in the Donor Advised Fund holding:
  - a. a 20% or greater interest in a business or in an entity, or
  - b. any interest in an entity in which any interest is owned by a donor or advisor to the Donor Advised Fund, or by a family member of any such person, or by an entity in which any of the foregoing persons has an interest,shall be referred to the Foundation's legal counsel for an opinion on the possible application of Code Section 4943.
6. to fully inform and educate all current and future donors and advisors to donor advised funds that grant recommendations are advisory only and are not legally binding. Further, no grants or expenditures may be made from donor advised funds which convey a personal benefit to a donor or other related party to such a fund, including, by way of example and not of limitation:
  - a. grants, loans, compensation or similar payment including expense reimbursement to donor, advisor or related party,
  - b. grants to individuals,
  - c. the payment of participation in fundraising events, dinners, galas, etc. which provide more than a nominal "quid pro quo" to those attending or participating,
  - d. donors may pay personal pledges from a donor advised fund; however the Community Foundation may not reference the pledge (or indicate the grant is a payment of a pledge) in the correspondence that accompanies the grant check; and
  - e. in all other cases prohibited by the Internal Revenue Service.

7. to fully inform and educate all current and future donors to donor advised funds that grants or expenditures from donor advised funds may not be made to benefit a specifically named individual. Grants may only benefit individuals if an unrelated, objective charity or government unit controls selection with no donor involvement, and awards the grant.
8. to fully inform and educate all current and future donors to donor advised funds that grants or expenditures from donor advised funds may be made to charitable organizations qualified under Internal Revenue Code sections 501(c)(3) (charitable organizations) and 509(a)(1), (2), or (3) (publicly-supported charitable organizations) and that recommendations for grants or expenditures to community projects which meet the requirements of Code section 170(c)(2)(B) (public, charitable or exempt purposes) will be considered on a case-by-case basis and must be approved in advance by the Foundation's grant committee; and
9. to fully inform and educate all current and future donors to donor advised funds that that the Community Foundation will communicate to them at least annually community needs for which they might want to consider recommending a grant.
10. to fully inform and educate all current and future donors to donor advised funds that a fund that is considered inactive will follow distribution directions articulated in the fund agreement (in the case of there being no remaining advisors) or will make distributions recommended by the Foundation's Board of Directors. Prior to the Board making a grant distribution from an inactive fund, the Foundation will take reasonable steps to communicate with the donor/fund advisor to remind them of policy regarding inactive funds. These steps will include one or more of the following using contact information last provided by the donor/advisor: 1) electronic communication, 2) mailed communication, 3) phone call.
11. to review all Foundation communications on an ongoing basis to assure accurate and comprehensive descriptions regarding the establishment and administration of donor advised funds held by the Foundation; and
12. to educate all Fund Advisors of donor advised funds on the use of the Grant Recommendation Form (paper or electronic format), including the affirmation that the requested grant(s) will not convey personal benefits to the donors and related parties to the fund; and
13. to review all recommendations for grants from donor advised funds using GuideStar or a similar real-time resource to verify the 501(c)(3) and 509(a)(1), (2), or (3) status of the recommended recipient organizations and to visit the Indiana Secretary of State (SOS) website to verify the grantee is current on its business entity report.

14. to review all recommendations for grants from donor advised funds in light of any information known to the staff of the Foundation regarding the ability of the recommended recipient organization to appropriately use the recommended grant for public, charitable or exempt purposes; and
15. to approve or decline recommendations for grants from donor advised funds in compliance with the staff review outlined in the preceding paragraphs and, for those recommendations which are approved, process the requested grant distributions, or notify the Fund Advisor of the reasons the recommendation was not approved; and
16. to review all recommendations for grants from donor advised funds using Council on Foundations Flow Chart (see attached) to determine if expenditure responsibility is required. If expenditure responsibility is required, the letter to grantee will inform of advisor recommendation and will require grantee to file a report and provide documentation of expenditures by a specific date; and
17. to issue a grant when expenditure responsibility is not required. A check will be made payable to grantee and sent with a grant award letter which will include language that the grant is from the \_\_\_\_\_ (name of fund) Fund and that grants must be used only for charitable purposes and not for the private benefit of the donors and/or advisors to the fund; and
18. to submit all approved recommendations for grants from donor advised funds to the board at its next regularly scheduled meeting for affirmation of distributions from donor advised funds; and
19. to annually provide all fund donors and advisors of donor advised funds a copy of this policy.

AMENDED and RESTATED, March 11, 2024

### **CERTIFICATE OF SECRETARY**

I, N. Jane Wear, the duly elected Secretary of the Board of Directors of the Kosciusko County Community Foundation, do hereby certify that the foregoing is a true and complete copy of an AMENDED and RESTATED resolution adopted by said Board of Directors on the 11<sup>th</sup> day of March 2024.

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N. Jane Wear, Secretary

# Donor Advised Fund Grantees

## Grants can be made to these grantees without following special rules

### Most Charitable Organizations

- Public charities, 509(a)(1) and 509(a)(2)
  - Schools, Churches, Hospitals
  - Museums, Zoos, Symphonies
- Governmental units, if for public purpose
- Type 1 and 2 supporting organizations\*
- Type 3 supporting organizations that are functionally integrated\*

\*Grant is prohibited if donor, advisor or related parties of the fund also control a charity the supporting organization supports.

Private operating foundations  
(Grants to private non-operating foundations not recommended)

Sponsoring organization of a donor advised fund (e.g. a community foundation)

Other types of funds (e.g. field of interest, donor advised, scholarship funds)

## Grants can be made to these grantees using Expenditure Responsibility

### Certain Supporting Organizations

- **Type 3 supporting organizations** if not functionally integrated.
- **Any type of supporting organization** if donor, advisor or related parties of the fund also control a charity the supporting organization supports.

**Non-charitable organizations**, if grant is for charitable purpose, in or outside of US, e.g. for-profits, non-profits that are not charities, such as 501(c)(6) groups.

**Foreign charities.** – Can also use equivalency determination to make these grants.

## Grants may not be made to these grantees without paying taxes or penalties

**Individuals**, unless an unrelated, objective charity or government unit controls selection with no donor involvement, and awards the grant. Otherwise, scholarships to individuals, even if made payable to school for a specific individual, are prohibited.

**Donors, advisors or related parties.** No payments, such as compensation & expense reimbursements, allowed.

**Private non-operating foundations:** not recommended.

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