

Jewish Community Foundation of the West Distribution Policy

The Jewish Community Foundation of the West (the 'Fund'), subject to approval by the Board of Directors (the 'Board'), will periodically disburse assets: (1) based on recommendations from contributors to donor advised funds or (2) based on designations included in the originating agreements for field of interest, endowment and other restricted funds.

All disbursements by the Board or its designated Distribution Committee will also be subject to the following additional criteria:

1. Grants or disbursements from the Fund will be made only to U.S. organizations that are tax-exempt public Charities¹, or to domestic public charity that operates international donor-advised fund programs (such as United Way International and Charities Aid Foundation America)³ or to U.S., state or local governmental organizations qualified to receive tax-deductible charitable contributions, such as state colleges or universities.²
2. The Fund will not approve recommendations for grants or disbursements that: are directed to foreign charitable organizations; provide private benefit to the donor or any other individual; support lobbying, political campaigns or other political activities; or are for any purpose that is not entirely charitable. No grants may be used to discharge or satisfy a charitable pledge or obligation that is legally enforceable against the donor or any other person, or to pay for goods or services of value received by the donor or any other person. Grants or disbursements may not be used to support any charitable event, including fund-raising dinners, concerts, auctions, or other benefit functions when the donor would receive a *quid pro quo*.
3. The Fund will not approve recommendations for grants or disbursements to organizations that: support or endorse the destruction of Israel, anti-Semitism, racial discrimination or ideals and principles inconsistent with Jewish teachings and laws. The Fund will not approve grants to organizations that through their mission, activities, or partnerships:
 - a. Endorse or promote anti-Semitism, other forms of bigotry, violence or other extremist views;
 - b. Actively seek to proselytize Jews away from Judaism; or,
 - c. Advocate for, or endorse, undermining the legitimacy of Israel as a secure independent, democratic Jewish state.

Donors will receive written confirmation of all grants or disbursements distributed in response to their recommendations. Should the Fund decide not to approve a recommended grant or disbursement, the Fund will likewise notify the donor.

The Fund will take remedial action if it discovers that grants have been made for improper purposes. Remedial actions may include, but are not limited to, a requirement that the recipient charity return the gift.

4. Bifurcation. Since 2006, when Congress first adopted laws regulating DAFs held by community foundations, there has been an unanswered question regarding the permissibility of so-called

“bifurcated” distributions from DAFs that enable a donor, donor advisor, or related party (“Donor/Advisor”) to attend a charity-sponsored event or to become a member of a charitable organization. Bifurcation refers to the practice where the DAF distribution pays the “charitable” or deductible portion of an event and the Donor/Advisor pays the non-deductible portion. For example, in the case of a \$500 per plate charity dinner (for example, a fund-raising dinner sponsored by a synagogue) in which the fair market value of the dinner itself is \$100, the DAF distribution pays the \$400 charitable portion and the Donor/Advisor personally pays the \$100 non-deductible cost of the dinner. It has been somewhat unclear whether a community foundation is permitted to pay even the charitable portion of the dinner in such an event because there is a private benefit (the attendance at the dinner) accruing to the Donor/Advisor.

According to the Notice, Treasury and the IRS intend to issue proposed regulations that conclude that where a bifurcation confers a “more than incidental benefit” on the Donor/Advisor and that penalty taxes could be imposed on both the DAF sponsoring organization (i.e., on the community foundation) and the Donor/Advisor. Of course, “more than incidental benefit” is something of a subjective standard and could be interpreted by different persons in different ways in a given situation. As a consequence of the risk that a given donation could be viewed as conferring more than incidental benefit, JCFW has determined that it cannot accept recommendations for distributions from DAFs where it is aware of such bifurcation.

1. As defined in Internal Revenue Code Section 501(c)(3) and Section 509(a)(1), (2), or (3).
2. As defined in Internal Revenue Code Section 170(c)(1).
3. As defined under Rev. Rul 74-229