



TIDEWATER JEWISH FOUNDATION

TIDEWATER JEWISH FOUNDATION, INC. & AFFILIATES *PROCEDURES FOR OPERATION OF PHILANTHROPIC FUNDS*

I. Purpose

The purpose of the Procedures for Operation of Philanthropic Funds (“Policy”) is to guide the Tidewater Jewish Foundation, Inc. (“TJF”), Board of Directors (“Board”), staff, Donors and Affiliates in complying with the laws, IRS regulations and best practices applicable to Philanthropic Funds and with TJF’s administrative policies while achieving Donors’ charitable goals.

II. Scope and Types of Funds

This Policy applies to all Funds of TJF and its Affiliates. Each Fund is owned and controlled by TJF or its Affiliate. The assets contributed in connection with any Fund shall be the property of TJF/Affiliate held in its normal capacity; the assets shall not be deemed a trust¹ fund or constitute a separate legal entity held by TJF/Affiliate as a trustee or fiduciary. TJF/Affiliate, in its normal capacity, shall have the ultimate authority and control of all property contributed to it for Funds, and the income derived therefrom, for the charitable purposes of TJF/Affiliate.

Funds must be compliant with federal tax law and IRS regulations. A Fund is separately identified with reference (i.e. Fund name) to the contributions and distributions of a Donor(s). The three basic types of Philanthropic Funds are Restricted, Unrestricted and Donor-Advised, defined as follows:

A. Restricted Funds

Restricted Funds, or Field of Interest Funds, provide concentrated support to one or more charitable or governmental entities or charitable causes. Donors may create special programs, projects, scholarships or other resources that reflect their particular interests upon the acceptance of TJF/Affiliate. These Funds may also be restricted in the procedures used to make grants (such as approval by committee for distributions). They may also contain restrictions established by the TJF/Affiliate.

B. Unrestricted Funds

Unrestricted Funds are generally available for distribution to the named charitable organization to use as deemed necessary by the organization, primarily for operational expenses. The Donor does not provide advice with respect to Unrestricted Fund distributions.

C. Donor-Advised Funds (“DAFs”)

Currently, the Sponsoring Organization (SO) for Donor-Advised Funds is TJF, as those terms are defined in the Pension Protection Act of 2006 (“PPA”). The Donor(s) or person(s) appointed by the Donor(s)

¹ Unless assets are specifically contributed to a Trust under and applicable legal document whereby an income interest (charitable lead trust) or a residual/remainder interest (charitable remainder trust) will accrue to one of the other basic types of fund documents covered in this document.

(see Section IV) have, or reasonably expect to have, the privilege of providing advice with respect to the DAFs' distributions.

III. Establishing Funds

A. Fund Agreement

A Fund will be documented by a Fund agreement between the Donor(s) and TJF/Affiliate, and established by the donation or transfer of money or property by a Donor(s) to TJF/Affiliate, whether by contribution, gift, bequest or by transfer from a charitable or other organization. All Funds will be governed by a written agreement (the "Fund Document") between TJF/Affiliate and the Donor(s). These Procedures for Operation of Philanthropic Funds will be referenced in the Fund Document.

B. Minimum Funding to Establish Fund and Fund Naming

The minimum amount to establish a Fund is \$5,000. The Donor(s) may name the Fund, subject to approval of TJF/Affiliate. TJF's B'nai Tzedek Funds, as approved by TJF's Board June 22, 2016, are exempt from this minimum requirement.

C. Acceptance

New Funds will be formally accepted by TJF/Affiliate.

D. Recognition

The amount of individual contributions and Fund balances will not be published; however, gifts may be recognized in one or more recognition categories within TJF and/or Affiliate at the option of the Donor(s). Unless the Donor requests that a Fund be anonymous, it will be listed by name in TJF's Annual Report and may be listed elsewhere as determined by TJF/Affiliate. The Fund name, with its Donor to be acknowledged, will be identified to grant recipients unless the Donor requests anonymity.

IV. Fund Advisors

Fund Advisors are anyone with privilege (see also Section VIII(E)) to advise on distributions from DAFs and certain Restricted Funds. Fund Advisors can be:

1. Donor Advisor, the donor that established the Fund as described in Section III;
2. Other Fund Advisor as named by the Donor(s) in the executed Fund Document (or by amendment), serving during Donors' lifetime;
3. Successor Advisor(s), named by Donor(s) to succeed Donor(s) after Donors' death, as described in Section VIII(E)(2).

V. Contributions to Funds

A. Irrevocability

Contributions to a Fund are irrevocable. An authorized officer of TJF/Affiliate shall have the authority to accept, on behalf of TJF/Affiliate, contributions tendered in connection with new or pre-existing Funds subject to the Gift Acceptance Policy as administered by the Gift Acceptance Committee. If accepted by TJF/Affiliate, gifts to TJF/Affiliate generally qualify as charitable contributions under current tax laws as gifts to a public charity (different rules apply to gifts to certain private foundations). Contributions to a Fund may be made in many forms, including (but not limited to) cash, securities, real estate and retirement plan assets, all subject to acceptance by TJF/Affiliate.

B. Gift Acceptance

Gifts of real estate or property other than marketable securities must be reviewed and are subject to approval by TJJF's Gift Acceptance Committee as defined in TJJF's Bylaws (see TJJF's Gift Acceptance Policy document for further information).

C. Excess Business Holdings

PPA precludes DAFs from holding more than a minor interest in a business when the Donor or a related party ("disqualified person") also holds interest in the business. Known as the "excess business holdings" rule, this rule most generally states that a DAF and persons who are disqualified persons with respect to the DAF may not together hold more than a twenty percent (20%) interest in a business enterprise (generally, a corporation, partnership, joint venture, trust or other actively conducted business).

TJJF 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. TJJF will monitor any such holding and will dispose of any excess business holding as required by law.

D. Employer Matching Gift Programs

Certain employers offer programs that provide matching contributions to contributions made by their employees. Donors are encouraged to participate and are expected to comply with any requirements or restrictions under their employer's program such as whether the program provides matching contribution to DAFs.

VI. **Distributions from Funds**

A. Qualified Charitable Organizations

Distributions from a Philanthropic Fund must be to qualified charitable organizations, acknowledged as "public charities" as described in Section 501(c)(3) of the Internal Revenue Code that are not private foundations (non-operating), and certain governmental entities. These include charitable, religious and educational organizations, as well as school districts, public libraries and other units of government, such as state colleges and universities. See also "Expenditure Responsibility," Section VI(K) as it relates to distributions to other types of organizations.

B. Spending Policy ("SP")

As reviewed and recommended by TJJF's Investment Committee and approved annually by TJJF's Board, the purpose of a SP is to support current as well as future grant making and administrative needs of TJJF/Affiliates, while seeking to preserve the inflation-adjusted spending power of charitable assets over time. SP is intended to protect the corpus of the Fund over the long term by generally spending income under the authority of the Uniform Prudent Management of Institutional Funds Act (UPMIFA), as further described in Section VII (B). The SP provides guidance to be more flexible in certain years when necessary to manage the impact of investment market fluctuations with the objective of smoothing distributions from year to year. Unrestricted and certain Restricted Funds make annual distributions under the agreed-upon SP guidelines outlined in a Fund Document.

The SP will be shared with TJJF's Affiliates on an advisory basis with a recommendation for their adoption as the basis for their SP is the investment strategy and underlying capital market assumptions of TJJF's main investment pool. While distributions in excess of the approved SP may be adverse to the long-term purchasing power of the underlying TJJF/Affiliate Funds, TJJF/Affiliate retains a Variance Power typical of Community Foundations which allows the governing body flexibility to vary spending levels in response to community/Affiliate needs. This flexibility is typically described in Exhibit B of the Fund Agreement referenced in Section III, above.

C. Sweeps

An annual “sweeps” process applies the Board-approved SP to designated Unrestricted and Restricted Funds to generate charitable distributions to support community programs. Typically, the SP applies a distribution percentage to the average Fund balances over several prior years to smooth out impacts from swings in cash inflows/outflows and returns of the investment portfolio.

D. Distributions from DAFs and Certain Restricted Funds

TJF or its Affiliate has the authority to direct all distributions of income or principal of a Fund in accord with a Fund Document. Fund Advisors with an Advisory Privilege (see Section VIII(E)) may recommend grants to qualified charitable organizations in an aggregate amount not to exceed the amount of liquid assets then held by TJF/Affiliate in connection with such Fund. The IRS does not allow TJF/Affiliate to make grants to non-charitable organizations or individuals from DAFs. DAFs may or may not elect to follow the recommended SP. In accord with PPA, TJF/Affiliate shall consider and evaluate all such recommendations, but such recommendations will be solely advisory and TJF or its Affiliate is not bound by such recommendations.

E. Funding Goals

The philanthropic and funding goals and wishes of the Donor(s) should be included in Exhibit “B” of a Fund Document.

F. Pledges- Guidance to Fund Advisors

When Fund Advisors’ philanthropic and funding goals and wishes include support for organizations that assess dues or solicit pledges, Fund Advisors are encouraged to inform such organizations that they intend to advise TJF/Affiliate to make distributions from the specific DAF rather than to sign and personally obligate themselves on pledge cards or other similar documents of such organizations. This recommendation will be considered based on its suitability (Section VI(I)) and the available fund balance. The grantee organization should NOT provide the advisor with a gift acknowledgement for tax purposes and the advisor must not claim a charitable income tax deduction for advised distribution (IRS Notice 2017-73).

G. Distribution Request Form / Online Recommendations

A Fund Advisor may submit grant recommendations by completing, signing and submitting a Distribution Request Form to TJF/Affiliate, or by any other means prescribed by TJF/Affiliate for this purpose, including use of TJF’s online donor portal. TJF/Affiliate, in accordance with tax law, retains final discretion over all disbursements from all DAFs.

H. Payment of Distributions

Distributions will most generally be made within ten (10) business days of a request. Delays are likely to occur when distribution requests are for sums in excess of the Board-approved maximum (see Due Diligence), Section VI(I). Grants will be mailed to the official address of the grantee or otherwise provided only to officers or other official representatives of the grantee. No grant payment will be delivered or otherwise provided to a Fund Advisor. Fund Advisors may recommend that a grant be paid out over multiple years, subject to TJF’s/Affiliate’s grant approval and annual due diligence.

I. Due Diligence

Once a grant recommendation is received, TJF staff will perform due diligence to verify that the organization is a qualified public charity and that the organization’s mission is not incompatible with TJF’s/Affiliate’s mission. An officer of TJF/Affiliate will counter-sign the submitted Distribution Request Form to indicate approval of the grant as recommended by a Fund Advisor. Grant checks will be accompanied by a letter from TJF/Affiliate indicating the Fund and Fund Advisor 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, Fund Advisor or related parties in association with the grant and no additional income tax deduction is available for the grant. Recommended grants over certain thresholds (currently those over \$50,000 for TJF) require approval of the TJF Board/Affiliate.

J. Grant Restrictions and Prohibitions

IRS requirements preclude the following types of distributions from DAFs and certain Restricted Funds:

1. As defined in the Internal Revenue Code Section 6115, a *quid pro quo* contribution is a payment made partly as a contribution and partly in consideration for goods and services provided to the payor by the donee organization. The IRS has determined that “**bifurcated gifts**” where the SO of a DAF pays a deductible portion and a Donor/Advisor pays the non-deductible portion of any fundraising event or membership/dues or similar transaction, would confer more than an incidental benefit to the Donor/Advisor (IRS Notice 2017-73). TJF/Affiliate will not participate in any bifurcated gifts with charitable funds.
2. A DAF grant, or a grant from a Restricted Fund, cannot be used to satisfy all or any portion of a legally-binding pledge or other financial obligation of the Fund Advisor or any related parties (see Section VI(F)).
3. DAFs and Restricted Funds may not make any grants to individuals, emergency hardship grants or disaster relief grants (except to charitable organizations that provide disaster relief services and programs, such as the Red Cross). 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 Restricted Fund can be established, under which different IRS Regulations, rules and procedures shall apply.
4. Fund Advisors may support international charity work through recommended grants to U.S. based intermediary organizations that operate to provide support to foreign grantees, such as “Friends of” organizations. When a grant to a U.S. charity is specified for a foreign project or a foreign organization, TJF/Affiliate, as the grant making organization, will confirm that the intermediary organization has the requisite discretion and control over how the funds will be used internationally.
5. Fund Advisors and any related parties may not receive grants, loans, compensation or similar payments (including expense reimbursements) from a DAF or Restricted Fund.
6. As TJF/Affiliate retains ownership of DAFs and Restricted Funds, TJF/Affiliate may decline grant recommendations to organizations deemed incompatible with TJF’s/Affiliate’s mission that would otherwise be in compliance with the requirements in this Section.

K. Expenditure Responsibility

Pursuant to IRS Regulations, 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 requires TJF/Affiliate to maintain 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 Fund Advisor or a related party.

In general, TJF will not make grants from DAFs or Restricted Funds that require expenditure responsibility.

VII. Investment of Funds

A. Board Responsibility, Authority, Discretion

The Board shall have full responsibility, authority and discretion as to the investment and reinvestment of the assets of the Fund, including the retention or sale of any asset contributed. The assets may be commingled with other DAFs or other Funds of TJF and its Affiliates. Decisions with respect to the use of investment managers and retention, investment or reinvestment of assets and with respect to commingling of assets shall be the responsibility of the Board (or an appropriate Committee of the Board), under TJF's approved Investment Policy Statement (IPS). The IPS outlines the mission, prioritizes objectives, defines responsibilities of the Board, the Investment Committee, staff and investment advisor(s), and sets investment objectives and parameters.

B. Uniform Prudent Management of Institutional Funds Act (UPMIFA)

TJF has adopted the guidelines of the Uniform Prudent Management of Institutional Funds Act (UPMIFA), which requires organizations to exercise fiduciary responsibility regarding the handling of all Funds. The Board, committee members and staff have a legal obligation to do only what is in TJF/Affiliate's best interest. When determining year-to-year spending (i.e. SP), UPMIFA provides seven factors for TJF's Board to take into account:

1. The duration and preservation of the endowment Fund(s).
2. The purposes of the institution and the endowment Fund(s).
3. General economic conditions.
4. The possible effect of inflation or deflation.
5. The expected total return from income and appreciation of investments.
6. Other resources of the institution.
7. The investment policy of the institution.

C. Separate Investments

The IPS provides that Funds/Affiliate Funds with balances that exceed certain thresholds may be invested separately with the consent of TJF's Investment Committee under guidelines and procedures established in the IPS. While the Donor/Affiliate Board may choose the Investment Manager, TJF retains the primary oversight responsibility and determination as to the overall suitability of the investment strategy.

VIII. Fund Administration

The following shall apply in the administration of the Fund:

A. Minimum Fund Size

As indicated in Section III, the minimum gift to establish a Fund is \$5,000. It is expected that Funds will continue to be maintained at or above that balance with subsequent gifts and will remain active with recurring grant recommendations made by Fund Advisor(s) at least annually. "Acorn" funds which are intended to grow in sum to at least \$5,000 are permitted at the discretion of TJF/Affiliate. TJF's B'nai Tzedek Funds, as approved by TJF's Board June 22, 2016, are exempt from this minimum requirement.

B. Minimum Distributions

The minimum amount for a grant from a Fund is \$100. TJF's B'nai Tzedek Funds have a minimum grant amount of \$25.

C. Administrative Fees

Administrative Fees apply to all established Funds. The annual fee is subject to review/adjustment by TJF's Audit and Finance Committee and was last modified by TJF's Board in March of 2018, effective as of July 1, 2018. The Administrative Fee is generally 0.9% (90 basis points or bps) on all unrestricted and restricted funds, charged quarterly at a rate of 0.225%, based on a weighted daily average of the Fund's assets (minimum \$25 per quarter). An annual fee of 1% (similarly charged quarterly) applies to split interest funds and income-producing real property pending disposition. For DAFs, which are typically more active funds and for similar supporting foundations (SFs), Administrative Fees are applied using a tiered rate structure:

- 1% annual fee (0.25% per quarter) for DAFs/SFs up to \$1 million (daily average),
- 90 bps (0.225% per quarter) applied to DAF/SF average balances of \$1 million to \$2.5 million,
- 80 bps (0.2% per quarter) applied to DAF/SFs average balances of \$2.5 million to \$7.5 million, and
- 70 bps (0.175% per quarter) applied to DAF/SF average balances above \$7.5 million.

D. Fund Statements

TJF will provide Fund Advisors and other Fund representatives and Affiliates, with quarterly statements showing beginning and ending assets and the contributions to and distributions from the Fund and associated income and expenses. Fund statements are primarily disseminated on TJF's electronic donor portal. Electronic access is encouraged, as prior statements are also archived for each fund.

E. Advisory Privilege

Fund Advisor(s) of a DAF shall have the privilege of making recommendations as to distributions out of the corpus of a DAF, unless limited by the SP provision within the Fund Document. However, it is the general goal of the Board that a substantial portion of the corpus/principal of a DAF shall remain as a permanent endowment of or be used for TJF/Affiliate.

1. Jointly Held Funds - Distribution and Dissolution

If two or more individuals sign the DAF or Restricted Fund document they shall each be treated as Fund Advisors and a recommendation from one shall be treated as a recommendation from all unless otherwise specified in the instrument establishing the Fund. Upon TJF/Affiliate receiving notice from these Fund Advisors that they no longer wish to be bound together as Fund Advisors (i.e. divorce or a decision to divide the Fund), unless otherwise advised by mutual written direction of the Fund Advisors (or by a court decree in the case of a divorce) TJF/Affiliate shall treat each former Fund Advisor as holding the privilege of a new DAF or new Restricted Fund, each such new Fund receiving a prorata balance of the original undivided Fund's current balance.

2. Appointment of Fund Advisors and Successor Advisors

For DAFs and certain Restricted Funds, Donor(s) may extend the advisory privilege in writing during their lifetime to other individuals to be known as Fund Advisors. Individuals designated to hold the advisory privilege after the last to die of the Donor(s) shall be known as Successor Advisors. Successor Advisors do not hold the privilege to designate subsequent Successor Advisors upon their death unless approved by TJF/Affiliate.

- a. At the time of death of the Donor(s) of a DAF or Restricted Fund (with no Successor Advisor noted), the assets of the Fund shall become part of TJF's/Affiliate's Unrestricted Funds. If the Fund Document, as amended, indicates a Field of Interest or designated charity, then at the death of the Fund Advisor, the Fund will be reclassified as a Restricted Fund.

3. Termination of Advisory Privileges

All advisory privileges shall terminate upon the first to occur of the following:

- a. If at the time of death of the survivor of the Donor(s) the balance of the Fund is below \$25,000.
- b. TJF/Affiliate is in receipt a written release of the advisor privilege from the Fund Advisor or Successor Advisor.
- c. TJF/Affiliate finds that the person(s) holding the privilege is not available or competent to exercise the advisory privilege.

F. Disposition of Funds

1. Inactive Funds

A Fund will be deemed inactive after 24 months with no activity (distributions or contributions). TJF will attempt to contact the Fund Advisor(s) no less than three (3) times prior to terminating a Fund. Following action TJF/Affiliate, if no contribution or grant recommendation is made within sixty (60) days of the last contact, the remaining assets will be transferred to the TJF/Affiliate Unrestricted Fund and the Fund will be terminated. The Fund name will be preserved if the Fund has a balance of at least the minimum required amount. TJF's B'nai Tzedek Funds have a longer period of potential inactivity of five years before closing.

2. Funds with Nominal Balances

Funds with nominal balances, generally less than \$1,000, will be periodically addressed on a case-by-case basis. Fund Advisor(s) will be encouraged to build the assets in the Fund or to make a final grant recommendation from the balance. If no action is taken within sixty (60) days of contact with the Fund Advisor, assets from the Fund may be transferred to the TJF/Affiliate Unrestricted Fund, following action of TJF/Affiliate.

Approved and adopted by the Board of Directors of the Tidewater Jewish Foundation on June 5, 2013, and revised/updated March 20, 2018



www.facebook.com/tidewaterjewishfoundation

Contact the Tidewater Jewish Foundation:

www.jewishva.org

5000 Corporate Woods Drive, Suite 200 Virginia Beach, VA 23462

Phone: (757) 965-6111 Facsimile: (757) 965-6102