

# Fund Terms and Conditions



## TAX STATUS OF CONTRIBUTION

Funds established at Hudson Community Found (“HCF”) are component funds of HCF, a Section 501(c)(3) public charity. Certain contributions other than cash or marketable securities must first be approved by HCF. All contributions to HCF’s funds are treated as gifts to a public charity and are generally tax-deductible, subject to individual limitations. HCF does not provide tax or legal advice; we recommend consulting a professional advisor with questions about a gift to HCF.

## VARIANCE POWER

As required by law, all assets contributed to funds become irrevocable gifts to HCF, and legal control and responsibility for the funds rest with HCF. All funds established at HCF are subject to HCF’s variance power, subject to individual limitations, as set forth in HCF’s Code of Regulations/Bylaws. Variance power gives HCF the authority to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if, in the sole judgement of HCF’s board of directors, such restriction or condition becomes unnecessary, incapable of fulfillment, unlawful or inconsistent with the charitable needs of the community served.

## INVESTMENT OF ASSETS

In making a gift to HCF, donors give up all right, title and interest to the assets contributed. You may choose your own Investment Manager. The board of directors and investment committee of HCF have the right to make all investment decisions regarding the gifts received, except that fund advisors have advisory privileges with respect to fund investments. All income and capital gains or losses will be allocated to the fund of a monthly basis.

A donor may recommend a customized investment approach through an outside investment advisor for funds carrying a certain balance. HCF’s investment committee must approve the recommended advisor, the advisor’s proposed investment strategy and underlying investments.

## FEES AND MINIMUMS

There is no set-up fee to open a fund at HCF, with certain exceptions; however, specific initial gift minimums must be met. Initial gift minimums vary by fund type. Once established, funds are required to maintain a minimum balance and are subject to support and investment fees. Fee information is available upon request. HCF reserves the right to change its fee or minimum policies at any time.

## ROLE OF ADVISORS

Donors establishing an advised fund may designate any person over 18 years of age to be an advisor on the fund. A fund can have more than one fund advisor but preferably no more than three. If a fund is advised jointly, upon the death of one fund advisor, the remaining fund advisor(s) retains the privileges associated with the fund. Donors, advisors, and successor advisors, are not agents or representatives of HCF and agree to not hold themselves out to the public as representatives or agents of HCF in any capacity.

## SUCCESSOR ADVISORS

The donor and any fund advisor may designate any person within one generation to be a successor advisor to exercise the privileges and duties of a fund advisor. Successor advisors may assume the privileges to advise the fund only after the deaths or resignations of all initial fund advisors named on the fund. The successor advisor(s) may be required to provide written notification and sufficient proof of the donor’s or fund advisor’s death prior to assuming the privileges and duties of a fund advisor. Successor advisors may not appoint further successors but may appoint additional fund advisors as long as they are in the same generations as the successor advisor. If the successor advisor is a minor, HCF’s board of directors reserves the right to require that grant recommendations be made by the minor’s legal guardian.

All requests to modify or appoint additional advisors and successor advisors to a fund must be communicated to HCF in writing. In addition, a written acknowledgment must be received from HCF confirming that the request has been granted. If HCF has not received the name(s) of an additional advisor(s) or successor advisor(s) to the fund, or other special instructions, in writing, HCF will use the fund’s balance to support HCF’s Community Endowment Fund.

The following Fund Advisory Privileges and Fund Relationship Definitions further explain the role of advisors and other interested parties to fund at HCF. These terms correlate to the Fund agreement forms and will determine the fund’s contacts and advisors.

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## FUND RELATIONSHIP AND FUND ADVISORY

### PRIVILEGES DEFINITIONS

**Fund advisor:** Individual has full advisory privileges over a fund, including grant recommendations, investment recommendations, naming the fund and appointment of other fund advisors and successor advisors. Any fundraising conducted by the Fund Advisor on behalf of the fund must comply with the Foundation's Fundraising Policy.

**Secondary Advisor:** Individual also has full advisory privileges over grant recommendations but has no other fund administration advisory privileges. (This is an intermediate level of authority.)

**Fund Representative:** Individual has access to fund information but no fund advisory privileges. (This is the lowest level of authority.)

**Successor Advisor:** The second generation fund advisory; he or she has no advisory privileges until the death or resignation of all initial fund advisors. (Primarily for donor advised funds, committee advised funds and scholarship fund.)

**Communications Contact:** This individual will be the initial point of contact to receive communications related to the fund. Only one contact may be designated to serve this function. This individual may or may not have fund advisory privileges, and

### FUND SPENDING POLICY

For endowed funds, HCF's board of directors sets and monitors a required annual distribution rate that is calculated as a percentage based upon the fair market value of fund assets. This rate is based on 12 trailing quarter balances and is subject to change based on community needs, investment performance and the long-term preservation of endowment funds' principal. An endowed fund must be invested for a minimum of 12 months before the fund's initial annual distribution rate can be calculated.

### GRANT DISBURSEMENT

Grants must be for charitable purposes, and those grants may be recommended to any 501(c)(3) organization or verified charitable entity (e.g. schools, religious institutions) located in the United States having a verifiable charitable purpose. Expenditure responsibility may be required for any organization which may include: pre-grant inquiries to recipient organizations, written grant agreements, expenditure recording keeping and reporting requirements, and requires return of any funds not used for the applicable charitable purposes.

Grants given to all 501(c)(3) public charities within the United States must be for a minimum of \$250 USD. Grant payments sent to organizations are accompanied by an HCF letter specifying the name of the fund and the fund advisor's name(s), unless requested otherwise by the donor or fund advisor and as approved by HCF. The fund advisor's address may also be included on all letters if requested by the fund advisor.

Any mail HCF receives for the fund will not be forwarded. Approved grants are typically sent within 7 to 10 business days. However, any fund submitting twenty or more grant recommendations at one time should allow up to 12 business days for processing. Grants made from funds at HCF are issued on checks with the name and logo of HCF.

HCF shall assume responsibility for check writing, bookkeeping, investment management, tax reporting, auditing and evaluation of projects, and for making available to the fund advisors and fund representatives reports of fund income expenses and grant-making, as appropriate.

### RESTRICTIONS ON GRANTS

In compliance with the Internal Revenue Code, grants are not permitted to individuals; for non-charitable purposes; for political contributions or to support political campaign activities; or for any purpose that would provide benefits, goods or services to a donor to the fund, the fund's advisor(s) or other related parties. A fund advisor is subject to IRS penalties if the fund's donor(s), advisor(s) or other related parties receive benefits, goods or services in connection with a grant recommendation. This includes grants for memberships, event tickets, sponsorships, registration fees in tournaments and cause-related marketing activities.

Grants are generally not allowed to private non-operating foundations, unless certain exceptions are met. Please contact HCF if you have questions about the exclusion of benefits from grant recommendations and/or multiple-year payments.

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## FREQUENTLY ASKED QUESTIONS

### What is a donor advised fund?

A donor advised fund is not a separate legal entity like a trust or a corporation. It is a fund defined by the IRS that is a sponsoring charity, like HCF, created through a written agreement with a donor. The donor contributes assets to HCF, and HCF agrees to treat those assets as a separate fund on its books. The donor retains the privilege of recommending charitable grants from the fund and the way in which HCF should invest the fund's assets.

### Who owns the assets once the gift is made and the fund is opened?

The law requires HCF to make clear in the agreement, and to obtain the donor's written acknowledgment, that the assets in a donor advised fund are the property of HCF and that HCF has discretion and control over the use and investment of the donor advised fund's assets.

### Why is discretion and control an issue?

In order for a donor to take advantage of the tax benefits that flow from a charitable gift, the gift has to be complete, that is, the donor has to part with control over the donated assets. The appearance of donor control could put the donor's tax deduction in jeopardy. Therefore, fund advisors can only make non-binding recommendations about grants; they cannot control when and how HCF will make grants nor control decisions about which grantees will receive funding.

### What are the limits on donor benefits in connection with donor advised fund grants?

Donors, fund advisors and related parties (such as family members or business interest(s) may receive only "incidental" benefits from a grant or investment of a donor advised fund. If a donor, fund advisor or related party receives more than an incidental benefit in connection with a donor advised grant, the IRS will assess a penalty of 125% of the amount of the improper benefit. The penalty may be assessed against either the person who recommended the grant or the person who received the benefit. (There is a separate penalty if a donor, fund advisor or related party receives a direct distribution from the donor advised fund, such as compensation or an expense reimbursement.)

These terms and conditions and frequently asked questions do not constitute legal, financial, or investment advice. Individual donors, advisors, are encouraged to consult with their own independent legal counsel or financial advisors concerning any gifts or agreements entered into with the Hudson Community Foundation

### Can I conduct fundraising for my fund?

Yes, but any fundraising conducted on behalf of your component fund must comply with the Foundation's Fundraising Policy and receive prior approval from the Foundation.

Fund Advisor(s) may not act on behalf of or represent the Foundation in any capacity.

### Are there restrictions on how fund assets can be used?

- Make payments to or for the benefit of any individual
- Support non-charitable purposes
- Make political contributions or support political campaigns
- Provide goods, services, or other benefits to a donor, Fund Advisor(s), or related parties.

Fund Advisor(s) who fail to follow these requirements may be subject to penalties under Internal Revenue Service (IRS) regulations.

Please return this form to:

#### **Hudson Community Foundation**

*Attention: New Fund Processing*

**49 East Main Street**

**Hudson, Ohio 44236**

**Phone: 330.655.3580**

**Fax: 330.655.3588**

**[amyjordan@myhcf.org](mailto:amyjordan@myhcf.org)**

Contact HCF at [info@myhcf.org](mailto:info@myhcf.org) or 330.655.3580 if you have any questions.

# Support Services and Fees



Hudson Community Foundation assesses support fees to cover the cost of administration and to continue HCF’s important work in our community. Fees provide the necessary resources to operate efficiently and effectively, ensuring fiscal responsibility in grant due diligence, donor and nonprofit education, research and other activities. Annual fees are assessed quarterly based on average fund balance.

Fund Type and Minimums	Support Fees
Donor Advised Funds <b>\$5,000 minimum initial gift</b> <b>\$2,500 minimum balance</b>	1.0% the first \$500k 0.75% on next \$500k 0.50% on next \$1.5 million 0.25% on above <b>\$200 minimum annual fee</b>
Field of Interest Funds <b>\$5,000 minimum initial gift</b> <b>\$1,000 minimum balance</b>	1.0% the first \$500k 0.75% on next \$500k 0.50% on next \$1.5 million 0.25% on above <b>\$200 minimum annual fee</b>
Scholarship Funds HCF Managed <b>\$5,000 minimum initial gift</b> <b>\$2,500 minimum balance</b> <b>\$20,000 endowed</b>	1.0% the first \$500k 0.75% on next \$500k 0.50% on next \$1.5 million 0.25% on above <b>\$200 minimum annual fee</b>
Designated Funds <b>\$5,000 minimum initial gift</b> <b>\$1,000 minimum balance</b>	1.0% the first \$500k 0.75% on next \$500k 0.50% on next \$1.5 million 0.25% on above <b>\$200 minimum annual fee</b>
Nonprofit Endowment Funds <b>\$10,000 minimum initial gift</b> <b>\$5,000 minimum balance</b>	1.0% the first \$500k 0.75% on next \$500k 0.50% on next \$1.5 million 0.25% on above <b>\$200 minimum annual fee</b>
Pass Through Funds <b>\$0 minimum initial gift</b> <b>\$5,000 minimum balance</b>	<b>Fee Varies - Generally 1.0% on funds</b> HCF reserves the right, in any particular quarter, to substitute the above described fee approach with an administrative fee equal to 1% of grants made from the fund during that quarter.

We also offer corporate advised funds and customized philanthropy services. Other fees may apply under special circumstances.

Contact HCF at [amyjordan@myhcf.org](mailto:amyjordan@myhcf.org) or 330.655.3580 if you have any questions.