



## Grantmaking Policies and Due Diligence Procedures

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### Introduction

The Albuquerque Community Foundation's ("Foundation") mission is to serve the Foundation's community by mobilizing and stewarding resources to create equitable opportunity for all. Decisions regarding the establishment of new funds, grant distributions from any fund, and the investment of the Foundation's assets are made in furtherance of its charitable Mission in the sole and absolute discretion of the Foundation.

The greater Albuquerque community, its donor base, non-profits pursuing important missions to serve immediate community needs and to address root causes of a range of challenges, the Foundation's role in the community, national philanthropic best practices, and other influences have evolved since this Grantmaking Policies and Due Diligence Procedures was last revised in 2017. That evolution, together with changes throughout the greater Albuquerque community, the community's donor base, non-profits pursuing important missions to serve immediate community needs and to address root causes of challenges we face, necessitates modernization and improvement upon the Foundation's prior thoughtful policy development work.

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Importantly, this policy and the work associated with its development follows recent work by the Board of Trustees and Foundation Staff to revisit the Foundation's Mission, Vision and Values that help guide its work. Central to those efforts were seeking to ensure that the Foundation focuses on serving the entire greater Albuquerque area, geographically and demographically, and incorporating principles of diversity, equity and inclusion into the Foundation's DNA through its governing documents. The goal of this work is to achieve what the philanthropic community refers to as "values-aligned philanthropy," supporting values that include "fairness and equality, safety and opportunity for individuals and families, treating others as you would want to be treated, and the importance of core principles of democracy." Council of Foundations, Values-Aligned Philanthropy: Foundations Resisting Hate and Extremism, 13 (August 2021).

The work described above and reflected in this policy continues to honor the fundamental "Purpose" of the Foundation as stated in Article I of the Foundation's bylaws: "The Foundation will . . . [give] special attention to current and changing community needs."

When we reference "other influences" as one of the drivers of the review and revision of this Grantmaking Policy and Due Diligence Procedures, we refer to a range of developments, including without limitation, the rise of destructive, anti-democratic extremism, activities that cause harm in communities, hate speech and associated violence. The philanthropic community nationwide is aware of these trends and recognizes that it needs to confront those challenges. Consequently, certain revisions to this policy are designed to focus the Foundation's and the community's attention and efforts on these topics. Together with that focus, the Foundation will continue to support a wide array of the philanthropic interests shared by our donors and other supporters to enhance and improve peoples' lives, provided those interests are not in conflict with the Foundation's bylaws, Mission, Vision, Values and policies (collectively, "MVV"). We envision the Foundation will continue to be built by and for all people, working as a partner, ally, and catalyst for a better future for all in our community.

In developing the revisions to this policy, Foundation Staff, Committees, and the Board of Trustees have investigated what the Council of Foundations, the Foundation's accrediting organization, and other Community Foundations and organizations supporting philanthropic work across the country have learned as they have considered revisions of comparable policies and practices as those addressed here. That said, the Foundation recognizes that while this new policy aligns with the Foundation's MVV, we will undoubtedly continue to learn about best practices and discover ways to improve this policy further as we implement these policy prescriptions.

We welcome the opportunity to discuss concerns that the Albuquerque community, whether existing donors, prospective donors, grantee non-profit organizations, and others, may have with the new policy. Notwithstanding the diligence and research behind the development of this revised policy, we expect that there will be viewpoints, concerns, and ideas that we have not considered fully. And, we expect that some members of our community may have questions or concerns about how we implement the policy. We trust that open and transparent communication and opportunities to learn from one another, will address most (if not all) concerns so that the Foundation may continue its increasingly effective service to the entire community.

The Foundation seeks to enhance the quality of life for all people in the region and works from the knowledge and experience that we are better together. We believe a region that welcomes and engages all will be better able to meet challenges and opportunities for our future.

Of course, in the implementation of this policy and other Foundation governing documents, the Foundation will follow applicable federal, state, and local laws. Further, the Foundation will not intentionally provide support to organizations operating, in the Foundation's judgment, in violation of those same laws, including without limitation laws regarding discrimination based on, without limitation, race, religion, disability, sexual orientation, national origin (including Native Americans), immigration status, ethnicity, gender, or gender identity.

## **1. General Grantmaking Mission and Procedures**

**Grants are for charitable purposes only**

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It is the goal of Albuquerque Community Foundation to make grant distributions for a broad range of philanthropic interests providing donors with the opportunity to consider total community needs with a concentration in the Greater Albuquerque Metropolitan Area (Bernalillo, Sandoval, Tarrant and Valencia Counties) and giving special attention to current and changing community needs. The Foundation is committed to ensuring its donors' intentions are honored at all times provided those intentions are consistent with the Foundation's "Purpose" as expressed in its bylaws and with the Foundation's MVV, and the use of grant dollars by the nonprofit organizations is appropriate. As a community foundation, the Foundation is able to make grants from Funds it administers to any charitable, educational, religious, or public entity, subject to the Foundation's MVV.

To that end, it is the policy of the Foundation to perform due diligence on all potential grant recipients to ensure, at a minimum, the grantee is qualified under Section 501(a) of the IRS Code as an organization described in section 501(c)(3) or as a qualified public educational institution or government agency and that it meets the other standards expressed in these policies and procedures. Every program that benefits an individual must follow the IRS Guidelines for Grants to Individuals and the Foundation's own policies on Grants to Individuals. See Appendix A policies included below.

#### **a. General Procedures**

Subject to any applicable Foundation document retention policies, Foundation Staff will collect and hold on permanent file (electronic or paper) appropriate documentation of each grantee. There are many types of organizations qualified to receive grants and due diligence procedures will vary between entities but should be consistent within the category. The main definitions are from the IRS Code *Section 509(a) which is subdivided into three categories:*

1. 509(a)(1) - primarily includes churches, schools, hospitals, and other organizations that receive their public support primarily from gifts, grants and contributions from a broad group of people;
2. 509(a)(2) - covers organizations that receive their support from a combination of gifts, grants and contributions and fees for their exempt services; and
3. 509(1)(3) - covers supporting organizations - Type I, Type II and Type III supporting organizations.

Due diligence procedures will vary between entities but should be consistent within the category including: Nonprofit 501(c)(3) Organizations; Nonprofit 501(c)(3) Supporting Organizations; Nonprofit LLC Organizations; Educational Institutions; Government Agencies; Tribal Governments; International Organizations and Individuals.

All grant proposals, recommendations, or requests for funding from donor-advised funds, for example, are initially reviewed by Foundation Staff. Through GuideStar's Charity Check service, Foundation Staff verifies each potential grantee for current IRS status. If GuideStar/Charity Check does not have the organization (i.e. new organizations, international organizations, or government agencies) the information is requested directly from that organization or other sources. Organization websites and other resources may be used to verify activities and status of an organization. Further review of potential grants, as necessary, is discussed in the next subsection.

#### **b. New Mexico Organizations**

At the request of the New Mexico Department of Justice (formerly the New Mexico Attorney General), Charitable Organization's Registrar, the Foundation requires organizations to show compliance with New Mexico charitable laws and regulations. New Mexico 501(c)(3) organizations must show proof of compliance with registration and annual reporting requirements for charitable organizations. As a service to nonprofits, Foundation Staff also verifies state corporate status available from the New Mexico Office of the Secretary of State Business Services Division website and notifies the organization if the status is in jeopardy allowing them to comply with state laws in a timely matter.

The process of verifying Guidestar Charity Check and confirming compliance with the New Mexico Attorney General's office and Secretary of State good standing constitutes Due Diligence Procedures.

#### **c. Guiding Diversity, Equity and Inclusion, Anti-Hate and Anti-Racism Principles**

Considering recent revelations that some percentage of philanthropic giving has, unwittingly or otherwise, ended up in organizations that foment hate, racism, white supremacy and other hateful activities, the Foundation reaffirms and adopts the following principles, the spirit of which should guide the day-to-day work of the Foundation Staff as it works with donors, grantees, as well as potential donors and grantees:

- We honor the fundamental value and dignity of all individuals and seek to cultivate and facilitate relationships with donors seeking to advance charitable work in our community honoring those principles. Thus, the Foundation will not support a prospective donor's establishment of funds that, directly or indirectly, would be contrary to the Foundation's commitment to changing systems of oppression and harm to achieve equitable opportunity for all. In alignment with that commitment, the Foundation will not distribute funds to or otherwise support organizations that engage in or perpetuate hate or hateful activities. We define "hate" as enmity or malice based on one or more of the following actual or perceived characteristics of groups or individuals: race, religion, disability, sexual orientation, national origin, immigration status, ethnicity, gender, gender identity, or other characteristics. We define "hateful activities" as those that, in the Foundation's judgment, result in or incite violence, intimidation, harassment, or threats; defamatory, dehumanizing, or maligning speech; negative stereotyping; or other acts of marginalization. Depending on the circumstances, deception or misrepresentation about an organization's mission, positions, or services may be considered hateful activity. Please note that the Foundation may decline to support organizations that perpetuate hate or, independently, organizations that support or advocate hateful activities.
- The Foundation respects religious freedom and recognizes that our donor base supports a wide range of religious organizations, beliefs, and views, which are commonly reflected in grantmaking to churches, mosques, synagogues, temples and other faith-based organizations. The Foundation, however, will not accept a donor's grant recommendations to faith-based organizations where support of any such organization would constitute a breach of the immediately preceding principle regarding hate and/or hateful activities or where the charitable activities supported by a grant would require participation in, or agreement with, a religious activity that may be considered hateful as a condition for receiving services.

The Foundation Staff will perform careful due diligence to appropriately assess proposed grant recommendations to ensure the Foundation makes informed decisions consistent with this policy.

#### **d. Grants to Non-501(c)(3) Organizations**

On the occasion that the Foundation makes a grant to a non-501(c)(3) organization, which includes, but is not necessarily limited to 501(c)(4) and 501(c)(6) organizations and/or a non-charitable organization, the Foundation must ensure the grants will be used solely for charitable purposes and will serve the public benefit. Reporting of such grants must demonstrate the expenditure of funds for charitable purposes. Any funds not specified to have been used for charitable purposes, must be returned to the Foundation.

#### **e. Payment Procedures**

At the conclusion of all Due Diligence Procedures for a grant, the appropriate grant award agreement and/or letter is generated by Foundation Staff where the proposed grant is approved, and such grants are posted for payment. Grant checks are prepared within fifteen (15) business days of approval (depending on the size of the grant) and receipt of all appropriate documentation. Grant distributions requested to new organizations, religious organizations and other service areas as defined by the Foundation may require additional due diligence, therefore increasing the timeline for distributions. The award letter will include any special instructions, reference to approved grant proposal or other intended purposes of the grant.

#### **f. Grant Authorization**

Initial grant authorization may be made by the President/CEO or by a vote of the Board of Trustees as well as from donor-advisor(s), their representatives and grant proposal review committees. Grant recommendations coming from a committee of the Foundation in an annual grant cycle process are reviewed and voted on by the Board of Trustees through email or at a Board meeting, unless the Foundation's Executive Committee has approved

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previously. Grants from other grantmaking processes including donor-advised grants and distributions from Organization Beneficiary Funds are considered and approved by Foundation Staff with Board of Trustees' notification at regularly scheduled Board meetings, provided those proposed grants and distributions meet the standards provided in these policies and procedures. On occasion the Board of Trustees may initiate and approve a grant. In such cases, all Due Diligence procedures are followed before the grant can be made. See Appendix A - Resolution for approval of Grants for Individuals and Grants from Donor-Advised Funds.

In particular cases, the Foundation may include language in any relevant grant documentation that the grant assistance is a charitable gift and not a contract and/or may confirm that the grant recipients will not provide anything of value or any type of service back to the Foundation. Reporting requirements in any grant documentation should be described as for assessment purposes only and do not provide any benefit to the Foundation. Further, the Foundation, where necessary, may consider including in any grant documentation a statement confirming the grantee is prohibited from making any program, funding, benefit, or employment decisions on the basis of race, religion, disability, gender, gender identity, sexual orientation, national origin (including Native Americans), immigration status, or ethnicity.

#### **g. Evaluation of Donor-Advised Fund Requests**

Foundation Staff will review proposed grants to ensure charitable status and eligibility through commonly utilized databases in the community foundation industry, and to ensure consistency with the Foundation's MVV. Foundation Staff may flag any proposed grant from a fund deemed inconsistent with the Foundation's MVV. Foundation Staff may then conduct any appropriate due diligence regarding the organization and its leadership and make a determination if further investigation is warranted before recommending any grant be approved or declined that may conflict with the Foundation's MVV. If a conflict between the proposed grant and the Foundation's MVV arises, Foundation Staff will follow the Values Aligned Protocol as approved by the Board of Trustees. Foundation Staff will recommend proposed grants be approved or declined. In the event of a Foundation Staff recommendation to decline the grant distribution request, the Foundation's Executive Committee has the authority to approve or decline the proposed grant, and if the Executive Committee determines that the Foundation decline the proposed grant, that decision shall be final. Foundation Staff will communicate the decision and reason for the decision to the donor or potential donor. This policy and related policies will be given to potential donors as the fund establishment process is initiated.

This process for consideration of declining a proposed grant, specifically including the role of the Executive Committee supersedes any previously adopted policy of the Board regarding delegation of grantmaking authority to Foundation Staff.

For any proposed grant that is declined, that decision does not preclude consideration of a potential future grant to the proposed grantee.

## **2. Procedures for Annual Grant Cycle Awards**

The core of the Annual Grant Cycle Awards is the pool of endowment funds within the general fields-of-interest and, on occasion, the unrestricted/impact funds. Additionally, the Foundation also holds funds with a more narrow focus than the broad fields-of-interest including funds restricted to type of grant or recipient. Foundation Board and Foundation Staff review endowment fund restrictions for those within the pool of the annual grant cycle program and periodically adjust those fields to assure appropriate inclusion of donor interests as well as evolving community needs. In 2023 general fields-of-interest for the Annual Grant Cycle Program were Animal Welfare, Arts and Culture, Economic and Workforce Development, Education, Environmental and Historic Preservation, Health, and Human Services. Funds with a narrower focus may be part of the Annual Grant Cycle Program Fields-of-Interest, they may have a separate Request for Proposals (RFP) and different parameters for grants, or they may be allocated at the discretion of Foundation Staff, following the procedures for Foundation Advised awards. All grantees are required to sign a **Grant Agreement** before payment is made.

### a. Advisory Review Panels

All Annual Grant Cycle award recommendations will be made by an advisory review Panel to provide objective guidance to the Foundation in grant awards. The general purpose of each Panel is to fund a group of proposals that collectively supports the community's needs in a specific area and in relation to available resources, and to:

- Provide qualitative and quantitative evaluations of applications
- Provide evaluations of applications based on merit
- Assess the reasonability of the funding requests
- Advance awareness of the diversity of activity in the community
- Represent a diversity of opinion and knowledge

### Panel Membership, Criteria and Responsibilities

In the Annual Grant Cycle, individuals from the community are invited to serve on a Panel because of their specific expertise in a field or their relationship to the Foundation with particular emphasis on the diverse cultural and ethnic pluralities of the community. Often, review Panels are also convened for Giving Circles and other advised or restricted funds established by families or friends. In these instances, members are likely to be selected from the group's membership or the family/friend group. Foundation Trustees are welcome and encouraged to participate on Panels as their time allows and Panel members are needed.

Generally, after initial review and screening by Foundation Staff, advisory panel/committee members receive copies of proposals or applications in advance and are required to review and score them before the full committee meeting. Foundation Staff chair each committee meeting and committees generally meet once to discuss applications and develop award recommendations for Board of Trustees consideration. Committee members will consider and apply a rubric developed by Foundation Staff and the Community Impact Committee (or its successor) when reviewing proposals.

### b. Early Decline Procedures in Annual Grant Cycle Funding

Reasons for declining a request early in the funding cycle are varied. There are basic policies that can be extracted from the Grant Criteria and Guidelines that might assist with the assessment of whether a grant request meets what is referred to as, "threshold criteria." A listing of the reasons is provided below. These policies are restricted to grant requests through the Annual Grant Cycle process. Initial review of proposals is done by Foundation Staff to identify those proposals not within the guidelines. In some cases, Early Decline letters go out as soon as the decisions are made. In those circumstances, Foundation Staff are available to discuss the Early Decline decisions.

#### Reasons for Early Decline based on the organization and/or the specific proposal:

- **Organizations without a 501(c)(3), public charities with the private foundation status**, and any organization that is not in compliance with the IRS, NM Secretary of State and the Office of the Attorney General for the State of NM.
- **Affiliates of national or international organizations** having no significant or obvious impact on population groups within the Albuquerque metro area. This includes programs, activities and services that are administered externally and have no locally based collaborative partner. Additionally, local programs with a focus outside of the Greater Albuquerque Metropolitan Area (Bernalillo, Sandoval, Torrance, and Valencia Counties)
- **Government agencies** with no community-based, collaborating partners. Government agencies serving as fiscal sponsors may be acceptable but should be assessed to determine if fees or other unnecessary costs are being charged to the project.
- **Umbrella funding organizations** serving as re-granting organizations. Typically, the Foundation does not provide re-granting funds through the annual program except in instances of special projects or other funding initiatives.
- **Exclusions as stated in the guidelines:** to individuals, for political or religious purposes, to influence legislation or elections, to private foundations and other grantmaking organizations.

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- **Publications, research projects, tours, and trips** as sole activities. If they are activities WITHIN regular organizational plans or operations and are listed in the budget, this may be acceptable. Essentially, they must be a part of a broader context.
- **Organizations fomenting “hate” or pursuing “hateful activities”**: See the definitions of “hate” and “hateful activities” above.

### c. Funding Higher Educational Institutions

The Foundation will accept proposals annually from institutions of higher education:

- Located in the Bernalillo County metro area
- Schools included (but not limited to): UNM, CNM, NMSU, Highlands, NM Institute of Mining & Technology
- Schools with more than 20,000 students at campuses in the metro area may submit up to 2 proposals a year from different schools/colleges/area of the institution
- Smaller schools may submit one proposal per year

Parameters to be considered for funding:

- Projects to be considered should be strongly community based, *i.e.* strong volunteer commitment from students
- The primary beneficiary in most cases would not be the school's students
- Few grants have been made for activities on the school's campus

### d. Funding Faith-Based Organizations

Grants from the Annual Grant Cycle Program are **NOT** made for religious purposes but MAY BE made to faith-based organizations for the non-religious programs or operations offered to the broader community.

Characteristics of eligible programs:

- may be located in a house of worship
- may use the same room, but not at the same time for religious and non-religious programs
- religious programs are separated from non-religious programs
- are open to all, regardless of religious affiliation
- abstain from religious worship, instruction, or proselytization (recruitment)
- eliminate required statements of belief from participants

Grants will not be made to any such organization would constitute a breach of the Foundation's principle or policy, stated above, regarding “hate” and/or “hateful activities” or where the charitable activities supported by a grant would require participation in a religious activity as a condition for receiving services.

## 3. Procedures for Non-Annual Grant Cycle Programs

More than half of the Foundation's grants made each year are from donor-directed or donor-advised funds. Procedures are identical for endowment funds and non-endowed funds. Grants from non-endowed funds established by private foundations for re-granting must follow the same procedures as the private foundation would follow if they made the grant directly. Donor-advisors make suggestions to award specific grants. Donors may also restrict grants to specific nonprofit organizations or specific programs within the community, subject to final approval by the Foundation. Foundation Staff review information on each organization in accordance with the procedures provided in these Policies and Procedures before any distribution is made.

### a. Restricted Funds with No Donor Involvement in Grantmaking

The Foundation holds endowment funds restricted to specific organizations but with restrictions on use of annual grant funding. When accepting these gifts, the criteria, procedure, and distribution policy for grantmaking is agreed

upon with the donor or donor's representative. This type of fund may make grants to a government entity such as public schools or cultural institutions. In these cases, Foundation Staff provides oversight of use of funding to comply with donor wishes and the Foundation's Purpose. All general Due Diligence Procedures shall be followed as well as communication with the entity as to the specific program or operation supported by the funding. Generally, the organization would describe any relevant programs or operations within a request for the funding and, when requested, report on use of funds at the completion of the grant period.

**b. Grant Distributions from Organization Beneficiary Funds**

Nonprofit agencies with endowments or those with donor-designated endowments are notified annually of the amount available for distribution and must notify the Foundation in writing to receive payment of that distribution. All requests for distribution require the approval of the President/CEO with oversight of the Foundation Board of Trustees. Checks are normally prepared within 15 business days of receipt of required documentation.

Foundation Staff verifies the organization's current IRS tax status through Charity Check, confirms general information on the organization's mission and programs, checks for state compliance online with New Mexico Corporation Commission/PRC, and re-evaluates the organization's activities for consistency with the Foundation's Purpose, Mission, Vision and Values, including its anti-hate and anti-racism principles. Annually, each organization must comply with corporate and charitable regulations as outlined in 1a. above.

**c. Donor-Advised Grants from Endowed and Non-Endowed Funds**

Donor-advised funds provide donors with the enjoyment and privilege of recommending grants from the fund they establish, subject to certain legal and other restrictions, including the Foundation's ultimate decision-making authority under the terms of any agreement with the donor. Grants from a donor-advised fund can be made any time throughout the year. Certain grants from donor-advised funds may trigger IRS Expenditure Responsibility or Expenditure Equivalency Procedures due to type of organization or use of funding. See Appendix A for more information regarding Expenditure Responsibility Procedures. The Pension Protection Act 2006 does not distinguish between Endowed and Non-Endowed Funds, but imposes certain Expenditure Responsibility Procedures. See Appendix A.2.

A donor-advisor completes and submits a Grant Recommendation Form or writes a letter or electronic communication clearly identifying the Fund and the potential Grantee. Foundation Staff verifies the donor's relationship, if any, to the potential grantee and use of grant dollars. In keeping with these Foundation Grantmaking Policies and Procedures as well as applicable federal legislation and IRS regulations:

- Donors, advisors, or related parties may not receive goods or services for any recommended grant to any organization including benefits such as tickets or invitations to events which carry a monetary value. Foundation grants must be entirely for charitable purposes;
- Federal legislation prohibits donor-advised funds from making grants, loans, compensation or similar payments (including expense reimbursements to donors, advisors or other disqualified persons);
- Advisors may, subject to Foundation approval, include special instructions such as noting grants made anonymously or designating a specific program and/or purposes of the grant; and
- Advisors may not recommend, and the Foundation shall not award grants to satisfy a legally binding pledge.

At the request of the donor or at the determination of Foundation Staff, an organization recommended for a grant that is restricted to a specific program within that organization or a specific use of funds may be required to submit information similar to what is required when applying for a grant through the Annual Grant Cycle, including:

- General information on the organization's mission and programs;
- Proof of nonprofit status: 501(c)(3), educational institution or government entity;
- Recent financial statement including balance sheet;
- Annual operating budget reflecting expenditures and receipts may be required depending on the designation of the grant;
- A listing of current members of the board of directors; educational institutions or government agencies may submit a list of members of any appropriate advisory committee providing oversight; and

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- Religious organizations and public educational institutions are exempt from the state's charitable organization requirements. Foundation Staff will verify status and exemption of educational or religious organization.

This review process will normally be completed within a few days. Often current information on a New Mexico organization is on file from other grant proposals applications. If information is not readily available or current, and/or the organization has not received a grant previously, the organization is contacted either by telephone or email informing them of a possible grant and asking for current information, which may include a copy of the IRS tax exemption letter, brochures, current financial statements or annual report.

**d. Foundation Advised Grants**

From time-to-time grants may be recommended by Foundation Staff or members of the Board of Trustees from Unrestricted or General Operating Funds. Foundation Staff will present the recommendation to a Staff committee, consisting of the Community Impact Director and no less than two additional Foundation Staff members, for review and approval. The full Board of Trustees would be notified at the next regularly scheduled Board meeting.

## Appendix A

### Additional Board Approved Policies and Procedures

#### A. Expenditure Responsibility and Expenditure Equivalency Procedures, Approved by Board of Trustees on August 16, 2011, as Modified by Board of Trustees on \_\_\_\_\_, 2024.

It is the policy of Albuquerque Community Foundation (Foundation) to comply with IRS Expenditure Responsibility (ER) or Expenditure Equivalency (EE) procedures when such is required by law or policy.

**Definition (IRS):** “Expenditure responsibility means that the foundation exerts all reasonable efforts and establishes adequate procedures: [a] to see that the grant is spent only for the purpose for which it is made; [b] to obtain full and complete reports from the grantee organizations on how the funds are spent; and [c] to make full and detailed reports on the expenditures to the IRS.

See IRC Section 4945(h) – Expenditure Responsibility. ER/EE determination is specifically required for grants from donor-advised funds to supporting organizations and for grants made to organizations outside of the U.S. International organizations with offices in the US may be exempt from federal taxation under the IRS section 501(c)(3) code and therefore would not be included in ER/EE procedures. Grants to a foreign government, sovereign entity, or one of its political subdivisions such as the city, do not require any particular due diligence. The citation for this is Treas. Reg. 53.4945-5(a)(4)(iii) which states that a foreign governmental entity may be considered a public charity for grantmaking purposes.

In the normal course of determining an organization’s eligibility to receive a grant for charitable purposes, Foundation Staff will determine if a potential grantee requires ER or EE procedures taking into consideration the type of fund and the donor’s or donor’s representative’s involvement with the organization being considered.

#### h. International Grantmaking Procedures:

The Foundation shall follow the procedures described:

##### a. Basic IRS Requirements for grants to foreign Non-Governmental Organizations (NGO), the Foundation must:

1. Retain control and discretion as to the use of the funds;
2. Maintain records establishing that the funds were used for section 501(c)(3) purposes; and
3. Limit distributions to specific projects that are in furtherance of its own exempt purposes.

##### b. Due Diligence and Expenditure Responsibility

The Foundation must conduct a *pre-grant inquiry* to determine whether the proposed grantee is reasonably likely to use the grant for the specified purposes.

1. Review the organizational documents & financial statements for the NGO;
2. Obtain information about the NGO’s involvement with prior charitable programs, including references from reliable sources; research history of compliance or noncompliance with the terms of previous grants;
3. Identify the person who will administer the grant and obtain information on his/her qualifications; and
4. Obtain information about the NGO’s internal controls and accounting procedures for grant funds, including oversight mechanisms for charitable projects and historical data on previous grants (check grant compliance with grantor).

The Foundation must then:

1. Enter into a written grant agreement with the NGO restricting the use of grant funds for charitable purposes:

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- Be explicit on use and target audience, intentions, expectations, and general strategy but take into consideration gaps of knowledge & be flexible; and
  - Fully explain yourself and mission.
2. The grantee must maintain the grant funds in a *separate account* on the grantee's books.
  3. The *grantee must report* to the Foundation, in writing, not less than once a year during the term of the grant, explaining how it used the funds and describing its compliance with the grant terms and its progress toward the grant purposes, requiring, full explanation periodic narrative and financial reports on use of funds.
  4. The *Foundation must report* each expenditure responsibility grant on Form 990-PF as long as the grantee reports are required.
  5. Grants made to foreign organizations, other than an organization described in section 509(a)(1), (2), or (3), are subject to the same restrictions on the use of the grant as those imposed on domestic private foundations. These restrictions may be phrased in appropriate terms under foreign law or custom and ordinarily will be considered sufficient if an affidavit or opinion of counsel (of the Foundation or grantee) is obtained stating that, under foreign law or custom, the agreement imposes the same restrictions on the use of the grant as those imposed on a domestic private foundation.

### c. **Terms of Grant Agreement.** The International Grant Agreement must:

- Clearly state the purposes of the grant. Such purposes may include contributing to capital endowment, purchase of capital equipment, specific program or series of programs, or general support of the grantee organization, provided that neither the grants nor the income thereof may be used for non-section 170(c)(2)(B) purposes.
- Indicate that the grantee organization must repay any funds not used for grant purposes.
- State that the grantee will not be considered for future grants if all terms of this grant are not met.
- Indicate that the grantee organization must submit annual reports on the use of funds (unless the grant is to a private foundation for endowment or other capital purposes (see Treas. Reg. 53.4945-5(c)(2)), and in which case the reports on use of principal and income will be made the first year and the immediately succeeding two years if it is apparent that funds will be used appropriately.
- Indicate that complete records of receipts and expenditures must be maintained, and to make such records available to the Foundation. The grantee organization must also agree not to use funds in a manner inconsistent with the provisions of section 4945(d)(1) through (5). See Treas. Reg. 53.4945-5(b)(3).

### i. **Supporting Organizations, and Pension Protection Act of 2006 Expenditure Responsibility**

Section 501(c)(3) is the section of the Tax Code that describes religious, scientific, literary, educational and other charitable organizations exempt from federal income tax. However, all charities are further subdivided between public charities and private foundations. Public charities are subdivided into three categories, 509 (a) (1-3). While the Foundation makes grants to supporting organizations ("SO"), provisions within the Pension Protection Act of 2006 (PPA 06) define two types of grants from donor advised funds for which expenditure responsibility must be exercised or the distributions could be subject to tax penalties.

1. The first type is a grant from a donor-advised fund to a Type III functionally non-integrated supporting organization.
2. The second type is a grant made from a donor-advised fund to a supporting organization if it is found that the donor, donor-advisor or other "disqualified person" can be considered to have "control" of the supporting organization. "Control" will be found to exist if any donor, donor-advisor, or related persons may, by aggregating their votes or positions of authority, require a supported organization to make an expenditure or prevent a supported organization from making an expenditure.

#### a. **Definitions:**

A *Supporting Organization* qualifies as a public charity because it has a close relationship with another publicly supported section 501(c)(3) organization. Based upon the relationship of the supporting organization to the public charity it supports, a supporting organization will be classified as Type I, Type II, or Type III.

- Type I – By far the most common, is often described as a parent-subsidiary relationship and generally involves the 501(c)(3) organization appointing a majority of the board of the supporting organization.

- Type II – The least common, there is usually an overlapping board relationship where at least a majority of the members of the supporting organization are also members of the 501(c)(3) organization's board.
- Type III – These operate with a greater degree of independence from the organization they support. Typically, the 501(c)(3) organization appoints one member of the governing board of the supporting organization and institutes other procedures designed to ensure that the supporting organization is responsive to it. Type III supporting organizations may provide financial support to their 501(c)(3) supported organization i.e. a college foundation, or they may directly carry out a program or function for it.

*Functionally integrated Type III* is a new subcategory of Type III supporting organizations created by PPA 06. Functionally integrated supporting organizations are exempt from some of the new rules that have been imposed on Type III SO's. A supporting organization is considered functionally integrated if it meets the "integral part" test. This test is intended to demonstrate that the supporting organization is an integral part of the supported organization. There are two ways to meet the test:

1. The SO performs the functions of or carries out the purposes of the supported organization and, **but for** the SO, the supported organization would normally engage in those activities directly; and/or
2. The SO provides funding or other benefits for the supported organization at a level sufficient to ensure that the supported organization will pay significant attention to the operations of the SO. This is called "attentiveness."

*Disqualified persons* are donors and donor-advisors with respect to the fund. Donors and donor-advisors include a donor or any person appointed or designated by a donor that reasonably expects to have advisory privileges with respect to the distribution or investment of amount held in such fund or account. These terms also include family members of the donor and donor advisors. Finally, donor and donor-advisors include 35 percent controlled entities.

#### **b. Determining supporting organization status**

When a donor or donor's representative recommends a grant from a Donor-Advised Fund to a supporting organization, additional steps must be taken before a grant is approved and paid. Foundation Staff must determine if an organization is a 501(c)(3) not-for-profit organization as defined in section 509(a)(3) for supporting organizations. The IRS has approved use of the IRS determination letter, the IRS Business Master File, and GuideStar Charity Check to confirm the status of an agency as a supporting organization. Additional information and documentation may be requested from the organization and the organization may be asked to certify the Supporting Organization status before a grant is approved.

*Supporting documentation required for 509(a)(3) Type I, Type II:*

- Standard documentation required by due diligence process; and
- Copy of organization's governing documents (i.e. Articles of Incorporation, Bylaws, Declarations of Trust); and
- Written representation signed by an officer, director or trustee of the grantee identifying the grantee as a Type I or Type II supporting organization. The written representation must describe how the grantee's officers, directors, or trustees are selected, and references any provisions in governing documents that establish a Type I (operated, supervised, or controlled by) or a Type II (supervised or controlled in connection with) relationship (as applicable) between the grantee and its supported organization(s);

**Or**

- A written opinion of counsel of either the Foundation or the prospective grantee concluding the prospective grantee is a Type I, Type II, or functionally integrated Type III supporting organization.

*Supporting documentation required for 509(a)(3) Type III:*

- Standard documentation required by due diligence process; and
- A list that identifies the one or more supported organizations with which the prospective grantee is functionally integrated; and copies of the organization's governing documents (and, if relevant, of the supported organization(s)), and any other documents that set forth the relationship of the prospective grantee to its supported organizations, if such relationship is not reflected in the governing documents; and

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- A written representation signed by an officer, director or trustee of each of the supported organizations with which the prospective grantee represents that it is functionally integrated describing the activities of the grantee and confirming, that but for the involvement of the grantee engaging in activities to perform the functions of, or to carry out the purposes of the supported organization, the supported organization would normally be engaged in those activities itself;

**Or**

A written opinion of counsel of either the Foundation or the prospective grantee concluding the prospective grantee is a Type I, Type II, or functionally integrated Type III supporting organization.

Where appropriate in the discretion of Foundation Staff, including where questions arise regarding the appropriate compliance necessary to comply with applicable law and IRS regulations, Foundation Staff should consult with legal counsel as to how expenditure responsibility should be handled.

**B. Approval of Grants for Individuals and from Donor-Advised Funds, Approved by Board of Trustees March 15, 2007:**

**RESOLUTION**

**Approval of Grants for Individuals and Grants from Donor-Advised Funds**

**WHEREAS**, the Albuquerque Community Foundation (“Foundation”) holds and administers funds that were established for the purpose of providing Scholarship Grants, Individual Achievement Grants and Awards and Prizes to Achieve a Specific Objective;

**BE IT HEREBY RESOLVED**, the Foundation Board of Trustees delegates approval of grant awards in the amount of \$10,000 or less for student aid and other grants to individuals from the above referenced funds to the Foundation Staff and awards over \$10,000 to be approved by the Board, and

**WHEREAS**, the Foundation holds and administers donor-advised funds that were established for the purpose of providing grants to 501(c)(3) nonprofit organizations, educational institutions and government entities;

**BE IT HEREBY RESOLVED**, the Foundation Board of Trustees delegates approval of grants from the donor-advised funds to the Foundation Staff, and

**FURTHER RESOLVED**, the officers of the Foundation be, and each of them hereby is, authorized and empowered to approve or cause to be approved grants hereunder, and each such officer is authorized and empowered to take such other and further action as he or she shall deem necessary or desirable in order to carry out the foregoing.

**Approved by the Albuquerque Community Foundation Board of Trustees  
March 15, 2007**

**C. Resolution for Grants to Individuals, Approved by Board of Trustees March 15, 2007**

**RESOLUTION  
For Grants to Individuals**

**WHEREAS**, the Albuquerque Community Foundation (“Foundation”) has funds that were established for the purpose of providing scholarships and other charitable awards to individuals; and

**WHEREAS**, federal legislation enacted in August 2006 amends certain provisions of the Internal Revenue Code of 1986, as amended (“Code”), prohibiting donor advised funds, as defined in Code Section 4966 (“Section 4966 Donor-Advised Funds”), from making grants to individuals; and

**WHEREAS**, Code Section 4966(d)(2)(B)(ii) excepts certain scholarship and award funds from the definition of Section 4966 Donor-Advised Funds, provided such grants are made in accordance with certain protocols (“Section 4966 Scholarship Funds”); and

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**WHEREAS**, these protocols require, inter alia, all grants to individuals be “awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the board of directors of the sponsoring organization, and such procedure is designed to ensure that all such grants meet the requirements of paragraphs (1), (2) or (3) of section 4945(g)”;

**BE IT HEREBY RESOLVED**, all grants made to individuals from Section 4966 Scholarship Funds of the Foundation shall be made only for the purposes set forth in Code Section 4945(g)(1), (2) or (3), or as otherwise authorized by law; and

**FURTHER RESOLVED**, all grants to individuals from Section 4966 Scholarship Funds of the Foundation will be made on an objective and nondiscriminatory basis from a pool of persons chosen on the basis of criteria reasonably related to the purposes of the particular fund from which the grant is made (for this purpose, limitations based on sex, religion, or race are permitted where not contrary to public policy); and

**FURTHER RESOLVED**, no employee of the Foundation, nor any member of a selection committee recommending grants to individuals, may derive, directly or indirectly, a private benefit in connection with a grant from a Section 4966 Scholarship Fund; and

**FURTHER RESOLVED**, the Foundation hereby adopts the attached “Procedures of the Albuquerque Community Foundation for Awarding Scholarships, Fellowships and Other Grants to Individuals” (“Procedures”), which are made a part hereof, in order to insure grants to individuals from Section 4966 Scholarship Funds meet the requirements of Code Section 4945(g)(1), (2) and (3) and Code Section 4966; and

**FURTHER RESOLVED**, the officers of the Foundation be, and each of them hereby is, authorized and empowered to appoint, or cause to be appointed, selection committees to enable Section 4966 Scholarship Funds to qualify for the exception to the definition of a donor-advised fund under Code Section 4966 and to make non-material changes to the Procedures; and

**FURTHER RESOLVED**, the officers of the Foundation be, and each of them hereby is, authorized and empowered to approve or cause to be approved grants hereunder, and each such officer is authorized and empowered to take such other and further action as he or she shall deem necessary or desirable in order to carry out the foregoing.

**D. Procedures for Grants to Individuals, Approved by Board of Trustees March 15, 2007; Amended by Board of Trustees, February 19, 2009; Amended by Board of Trustees, June 27, 2023**

**Procedures for Awarding Scholarship, Fellowships and Other Grants to Individuals  
Scope and Intent of the Policy**

The Albuquerque Community Foundation (“Foundation”) from time-to-time holds and administers certain funds (“Funds”) that provide grants to individuals, including high school, college and university students, to enable the recipients to complete an undergraduate or graduate education in the field of their choice at the college or university of their choice. Grants made from such Funds shall be referred to as “**Scholarship or Student Aid Grants**.”

The Foundation also from time-to-time holds and administers certain Funds that make grants to individuals in recognition of achievement in the fields of art, literature, education, science, public or community service, or for other charitable or civic achievement. Such awards may not be intended to finance any specific activities of the recipients and may not impose conditions on the manner in which the prizes or awards may be expended by the recipient. Grants made from such funds shall be referred to as “**Individual Achievement Grants**.”

The Foundation also from time-to-time holds and administers certain funds that make grants to individuals to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee that relates to the Foundation’s mission. Eligible individuals may include graduate students, scholars, artists, professionals and other individuals with specialized skills or knowledge. Scholarships also may be awarded to pay for a course of study leading to a certificate or to achieve a skill level, such as art or vocational school. Such scholarships may cover the cost of tuition

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and related expenses. All grants described in this paragraph shall be referred to as **“Awards and Prizes to Achieve a Specific Objective.”**

The Foundation has established the following procedures pursuant to which Scholarship Grants, Individual Achievement Grants and Awards and Prizes to Achieve a Specific Objective will be awarded from funds where Donor-Advisors have any advisory privileges or participation in the selection of grant or award recipients. The following procedures shall be interpreted to ensure the Foundation's compliance with all applicable requirements of the Internal Revenue Code, including Section 4966, accompanying Treasury Regulations and guidance from the Internal Revenue Service, and these procedures may be amended from time-to-time.

For purposes of these procedures, a Donor-Advisor will be defined as an individual or organization, including a corporation, partnership or trust, that makes a contribution to a Fund where such Fund is separately identified by reference to contributions of the Donor-Advisor and with respect to which the Donor-Advisor (or any person appointed or designated by such Donor-Advisor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such Fund by reason of the Donor-Advisor's status as a donor.

The Foundation values and encourages the interest and involvement of donors to funds established to make Scholarship Grants, Individual Achievement Grants and Awards and Prizes to Achieve a Specific Objective. Such involvement may include developing criteria for awards, serving on grant selection committees and recommending others for places on selection committees.

## **I. Selection of Grantees**

Grantees are to be selected on an objective and nondiscriminatory basis. The group from which grant recipients are selected must be sufficiently broad so that giving grants to one or more members of the group fulfills a charitable purpose; however, selection from such a group is not necessary if one or more grant recipients are selected on the basis of their exceptional qualifications to carry out the purposes of the grant or it is otherwise evident that the selection is particularly calculated to effectuate the charitable purpose of the grant rather than to benefit particular persons or a particular class of persons. For example, selection of a qualified research scientist to work on a particular project does not violate the requirements of this paragraph if the scientist is selected from a group of three scientists who are experts in that field.

### **A. Scholarship Grants**

In connection with Scholarship or Student Aid Grants, Foundation Staff and designated members of selection committees established for such awards shall contact high school, college and graduate school administrators as well as managers of other relevant community institutions to advertise the availability of the Foundation's Scholarship Grants and to request that these administrators nominate potential candidates or encourage potential awardees to submit applications for scholarship aid.

### **B. Individual Achievement Awards**

In connection with Individual Achievement Awards, Foundation Staff and designated members of selection committees established for such awards shall contact relevant community institutions and individuals to publicize the availability of the Foundation's Individual Achievement Awards and to solicit nominations for such awards. Candidates for such awards may take no part in the selection process.

### **C. Awards and Prizes to Achieve a Specific Objective**

In connection with Awards and Prizes to Achieve a Specific Objective, Foundation Staff shall develop application or nomination procedures that are appropriate to accomplish the purposes of the Fund under which any such award is established.

## II. Criteria for Selection

The criteria to be used in selecting grant recipients from a fund established at the Foundation must be based on criteria that are appropriate to accomplishing the underlying purpose of the grant as described in the agreement creating such Fund. Foundation Staff should work with donors to establish Funds that fulfill the donor's charitable goals and feature clear selection criteria.

### A. Scholarship Grants

For Scholarship or Student Aid Grants, such criteria may include, but are not limited to, the following: prior academic performance, performance of each applicant on tests designed to measure ability and aptitude for educational work; recommendations from instructors of such applicant and any others who have knowledge of the applicant's capabilities, additional biographical information regarding an applicant's career, academic and other relevant experiences, financial need and conclusions which the grant selection committee may draw as to the applicant's motivation, character, ability, or potential. Criteria may also include the applicant's place of residence, past or future attendance at a particular school, past or proposed course of study or evidence of his or her artistic, scientific, or other special talent. Preference may be given to applicants of a particular sex, race, ethnic background or religion so long as such preference does not violate public policy.

Recipients of Scholarship or Student Aid Grants must be (1) primary or secondary school students; (2) undergraduate or graduate students at a college or university who are pursuing studies or conducting research to meet the requirements for an academic or professional degree; or (3) students – whether full-time or part-time – who receive a scholarship for study at an educational institution that provides an educational program acceptable for full credit toward a bachelor's or higher degree, or offers a training program to prepare students for gainful employment in a recognized occupation and is authorized under federal or state law to provide such a program and is accredited by a national recognized accreditation agency and all Scholarship or Student Aid Grants must be used for tuition and related expenses (as further described in Section VII below) at an educational institution described in IRC § 170(b)(1)(A)(ii), i.e., such institution must normally maintain a regular faculty and curriculum and must normally have a regularly organized body of students in attendance at the place where the educational activities are carried on.

The Foundation reserves the right to impose additional, minor reasonable restrictions and/or requirements upon the awarding of Scholarship or Student Aid Grants and the administration of such grants. Any substantial or material changes will be made only with the approval of the Foundation's Board of Directors.

### B. Individual Achievement Awards

In connection with Individual Achievement Awards, such criteria may include but are not limited to: the individual's past achievements and community involvements, other biographical information regarding an applicant's career, academic and other relevant experiences.

The Foundation reserves the right to impose additional, minor reasonable restrictions and/or requirements upon the awarding of Individual Achievement Awards and the administration of such grants. Any substantial or material changes will be made only with the approval of the Foundation's Board of Directors.

### C. Awards and Prizes to Achieve a Specific Objective

In connection with grants to individuals to achieve a specific objective, produce a report or other similar product or improve or enhance a literary, artistic, musical, scientific, teaching or other similar capacity, skill or talent of the grantee that relates to the Foundation's mission, recipients may include graduate students, scholars, professionals or other individuals with specialized skills or knowledge. Criteria shall be related to the purpose of the Fund under which the award is established and may include prior experience, contributions to the field, demonstrated academic achievement, financial need, character, ability, motivation and potential. In connection with scholarships awarded to pay for a course of study leading to a certificate or a higher skill level, criteria shall be related to the purpose of the Fund under which the award is established and may include financial need, character, ability, motivation, potential and the relevance of the candidate's course of study and career objectives to the charitable purposes of the Fund.

### **III. Grant Selection Committees**

The Foundation shall appoint all members of any selection committee charged with the evaluation of candidates for Scholarship or Student Aid Grants and Individual Achievement Awards. Appointments shall be made by designated Foundation Staff with oversight by the Board of Trustees. Selection committee meeting dates shall be determined by designated Foundation Staff of the Foundation and where possible designated Foundation Staff will accommodate committee members while allowing sufficient time, but no less than seven (7) days, for committee members to review each application prior to committee meetings. However, from time-to-time committee meeting dates will be at the sole discretion of designated Foundation Staff.

No combination of donor-advisors, persons recommended or designated by donor-advisors (or persons related to any of these persons) to a fund that makes Scholarship Grants or Individual Achievement Awards may, directly or indirectly, control any selection committee established in connection with such Fund. For example, donor-advisors, persons recommended or designated by donor-advisors and persons related to any of these persons shall not constitute a majority of any such selection committee (persons may include individuals, partnerships, corporations or trusts). Where a donor-advisor recommends a person for appointment to a selection committee, Foundation Staff will review such person based on objective criteria related to the expertise of such person, for potential committee placement.

Donor-advisors and related persons may provide advice with respect to the selection of grant or award recipients solely as members of a selection committee. Every member of any selection committee charged with the evaluation of candidates for Scholarship Grants and Individual Achievement Awards shall adhere to the relevant policies of the Foundation as they may be adopted and amended from time-to-time, including without limitation a conflict of interest and confidentiality policy. Every member of any selection committee charged with the evaluation of candidates for Scholarship Grants and Individual Achievement Awards shall be obligated to disclose any personal knowledge of and relationship with any potential grantee under consideration and to refrain from participation in the award process in a circumstance where he or she would derive, directly or indirectly, a private benefit if any potential grantee or grantees are selected over others. No grant covered by this policy may be awarded to any member of the Foundation's Board of Trustees, any substantial contributor to the Community Foundation, any employee of the Foundation, or any other disqualified person as defined in IRC § 4946(a) with respect to the Foundation, or, with respect to grants from a particular Fund, any donor-advisor or substantial contributor to such Fund or any member of a selection committee to such Fund, or for a purpose that is inconsistent with the purposes described in IRC § 170(c)(2)(B). All award programs, including scholarship and student aid awards, shall require every application be reviewed by every committee member individually prior to the selection committee meeting. If this is not feasible due to the number of applications received, the alternative is for committee members to utilize a grading rubric that is designed to ensure every application is being evaluated to the same standards. All scholarships/student aid distributions must be awarded on an objective and nondiscriminatory basis using a procedure that has been approved in advance by the Board of Trustees of the Foundation and that has been designed to ensure all such awards meet the IRS requirements for scholarship programs found in paragraphs (1), (2), or (3) of section 4945(g) of the Internal Revenue Code, to ensure the Foundation will remain in compliance with Community Foundation National Standards.

Each selection committee established under this policy shall forward its recommendations to Foundation Staff in such form and on such schedule as the Foundation Staff shall establish.

### **IV. Application and Nomination Process**

Applicants for Scholarship Grants and Awards and Prizes to Achieve a Specific Objective shall be required to submit such application forms and supporting materials as the Foundation Staff may deem appropriate on a schedule to be determined by the Foundation Staff. Individuals and organizations wishing to nominate others for Individual Achievement Awards shall also be required to submit such nomination forms and supporting materials as the Foundation Staff may deem appropriate on a schedule to be determined by Foundation Staff. Scholarship applications will be considered complete once the applicant has submitted the application through the proper

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channels. However, from time-to-time revisions to applications may be necessary and appropriate and can be made if the predetermined deadline has not passed. Applications shall not be made available to committee members until such deadline has passed. At no time shall a committee member contact an applicant regarding their application with the intent to seek more information including but not limited to race, religion, disability, gender, age, sexual orientation, ethnicity, national origin (including Native Americans), gender identify, or other personal familial information, or reasoning behind why an applicant has or has not applied to, or was declined from, additional scholarships/student aid.

## **V. Grant Renewals**

Grants will ordinarily be awarded for a one-year period but may be for a shorter or longer period. A Scholarship or Student Aid Grant or an Award or Prize to Achieve a Specific Objective may be renewable for a period appropriate to the purposes of the Fund under which the award is established. Otherwise, the Foundation may consider renewing a grant on a case-by-case basis according to the status of the grantee's project and the purposes of the grant.

## **VI. Supervision of Scholarship Grants**

### **A. General Procedures**

Unless otherwise provided in the fund agreement establishing a Scholarship Grant, each Scholarship Grant shall be paid by the Foundation directly to the educational institution for the use of the scholarship recipient. Each educational institution must be described in IRC§ 170(b)(1)(A)(ii) and must agree in writing to use the grant funds to defray the scholarship recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled at such educational institution and his or her standing at such educational institution is consistent with the purposes and conditions of the grant.

Unless otherwise provided in the fund agreement establishing a Scholarship Grant, a condition of each Scholarship Grant is that it will be used only for qualified tuition and related expenses within the meaning of IRC § 117(b)(2), and for room and board. Accordingly, a Scholarship Grant can be used only for: (1) tuition and fees required for the enrollment or attendance of the student at a qualifying institution; (2) fees, books, supplies, and equipment required for courses of instruction at such an educational institution; and (3) room and board. An additional condition is that no part of the Scholarship Grant shall be used as payment for teaching, research, or other services by the scholarship recipient required as a condition for receiving the scholarship.

### **B. Special Procedures**

If for any reason, a Scholarship Grant is paid to a person other than the educational institution attended by the scholarship recipient or if the Scholarship Grant is used for expenses other than qualified tuition and related expenses within the meaning of IRC § 117(b)(2) or for room and board, the Foundation must receive a report on the progress of each recipient of such a Scholarship Grant at least once each year. This report must include a summary of the use of the funds awarded, and the grantee's courses taken (if any) and grades received (if any) in each academic period. This report must be verified by the educational institution. A final report is also required.

Where the reports submitted or other information (including the failure to submit reports) indicate that all or any part of a scholarship grant is not being used in furtherance of the purposes of such grant, the Foundation is under a duty to investigate. While conducting its investigation, the Foundation shall withhold further payments to the extent possible until any delinquent reports required under the foregoing provisions of these procedures have been submitted.

If the Foundation learns that all or any part of a grant is not being used in furtherance of the purposes of the grant, the Foundation shall take all reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant. If such a diversion occurs and the grantee has not previously diverted grant funds to any use not in furtherance of the purposes of the grant, the Foundation shall withhold any further payments to the grantee until it has received the grantee's assurance future diversions shall not occur and shall require the grantee to take extraordinary precautions to prevent future diversions from occurring.

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Where a grantee has previously diverted funds received from the Foundation and the Foundation determines that any part of a grant has again been used for improper purposes, the Foundation shall take all reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant. In such case, the Foundation shall withhold further payments until: (1) the diverted funds are in fact recovered or restored; (2) the Foundation has received the grantee's assurances that future diversions will not occur; and (3) the Foundation requires the grantee to take extraordinary precautions to prevent future diversions from occurring.

The phrase "all reasonable and appropriate steps," as used above, shall include legal action where appropriate, but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

## **VII. Supervision of Individual Achievement Grants and Awards and Prizes to Achieve a Specific Objective**

Individual Achievement Grants cannot require a particular use of the funds, and no report shall be required of the recipient.

Recipients of Awards and Prizes to Achieve a Specific Objective or, if appropriate, the organization supervising the grantee's work, will be required to provide a written report to the Foundation about their activities and use of funds at the end of the grant period. If the grant is for a term of longer than one year, periodic written reports will be required at least annually. Any funds not expended for the purpose of the award must be returned to the Foundation for use in furtherance of its mission and the charitable purposes of the Fund under which such award was made.

## **VIII. Recordkeeping Requirements**

The Foundation shall retain the following records in connection with all Scholarship Grants, Individual Achievement Grants and Awards and Prizes to Achieve a Specific Objective: all information obtained by the Foundation to evaluate the qualifications of potential grantees; the identification of grantees (including any relationship of any grantee to the Foundation or to a director or officer of the Foundation); the purpose and amount of each grant; and any additional information the Foundation obtains in complying with its grants administration procedures. Information pertaining to unsuccessful applicants for awards shall be kept along with information on successful applicants.

Records pertaining to any grant made pursuant to this policy shall be kept for no less than three years after the filing of the Foundation's annual tax return for the period in which the last installment of such grant was paid.

***February 19, 2009, Board of Trustees approved a motion to designate appointment of advisory committees of grants to individuals to Foundation Staff.***