



Fund Terms and Conditions

Tax Status of Contribution

Funds established at the Rockland RCF (the RCF) are component funds of the RCF, a Section 501(c)(3) non-profit organization. Contributions other than cash or marketable securities must first be approved by the Board of Directors of the RCF. All contributions to the RCF funds are treated as gifts to a public charity and are generally tax deductible, subject to individual limitations. **The RCF does not provide tax or legal advice; we recommend consulting a professional advisor if you have questions about a gift to the RCF.**

Variance Power

All assets contributed to funds become irrevocable gifts to the RCF and legal control and responsibility for the funds rest with the RCF. All funds established at the RCF are subject to the RCF's "variance power," as set forth in the RCF bylaws. Variance power gives the RCF 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 judgment of the RCF Board of Directors, such restriction or condition becomes unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community served.

Investment of Assets

In making a gift to the RCF, donors give up all right, title and interest to the assets contributed. In particular, donors give up the right to choose investments, investment managers, brokers, or to veto investment choices for their gifts. Therefore, the board and investment committee of the RCF have the right to make any or all investment decisions regarding gifts received, *except that fund advisors have advisor privileges with respect to fund investments*. All assets contributed to funds will be managed in the RCF investment pools. Investment allocations among the RCF investment pools can be changed no more than once per calendar year, unless a significant change to grant-making or fund balance occurs and prudence requires a change. The RCF may hold up to five percent (5%) of fund assets in non-interest bearing cash at any time. All income and capital gains or losses will be allocated to the fund on a monthly basis. *Presently, the RCF maintains the position that in order to protect and preserve capital, investments should be of a conservative nature with no investment in equities occurring unless overall fund reaches a minimum of \$250,000.00.*

The Following factors are considered in managing and investing of RCF funds:

- (1) general economic conditions;
- (2) the possible effect of inflation or deflation;
- (3) the expected tax consequences, if any, of investment decisions or strategies;
- (4) the role that each investment or course of action plays within the overall investment portfolio of the fund;
- (5) the expected total return from income and the appreciation of investments;
- (6) other resources of the institution;
- (7) the needs of the institution and the fund to make distributions and to preserve capital; and
- (8) an asset's special relationship or special value, if any, to the purposes of the institution.

Fees and Minimums

Funds established at the RCF are required to maintain minimum balances and are subject to support and investment fees. A list of current fees and minimums is available upon request. The RCF reserves the right to change its fee or minimum policies at any time.

TYPES OF FUNDS

Endowed Fund

The assets in an endowment fund are donor restricted assets (i.e., may not be spent) until they are "appropriated for expenditure" by the institution for the purpose as set forth in the fund agreement by the donor. Further, a donor of an endowment fund may include an explicit spending limitation in the gift instrument and/or limit the expenditure so as not to expend funds below the original dollar value of the gift. There are minimum initial gift requirements.

Non Endowed Fund ("pass through")

Funds are collected for the charitable purpose as set forth in the fund agreement and are expended for such purpose upon the instructions of the donor. There are minimum balance requirements.

Designated Fund

This may be an endowed fund or a "pass through" fund. Funds support one specific charitable cause or organization. The designated organization must be a 501 (c) (3) non-profit. It cannot be a private foundation. In the event the designated organization ceases to exist, the Rockland Community Foundation will direct the payout of funds to another 501 (c) (3) non-profit organization with a similar purpose.

Scholarship/Memorial Fund

Donations to these types of funds can benefit students at any education level, particular field of study, or specific situation, and can be established to honor or memorialize a loved one. For any scholarship fund established at the RCF, the scholarship selection committee must be appointed by the RCF; however members may be recommended by the donor. The donor and parties related to the donor may serve on the selection committee but they cannot directly or indirectly control the committee. The scholarship selection process must be approved annually by the RCF Board. The RCF generally disburses scholarship funds to the institution the recipient attends and will not disburse a grant to a specific individual.

Unrestricted Funds

Donations are not designated by the donor for use for a particular purpose. The RCF Board of Directors determines the use of these funds in accordance with our charitable mission of connecting donors to causes in Rockland County.

Field of Interest Funds

Donations to these funds are granted by the Rockland Community Foundation Board of Directors to support an area of interest that the founder of the fund or an honoree cares about.

Nonprofit Organization Endowment Funds

Nonprofits can take advantage of establishing an endowment to grow their assets for the purpose of providing a source of income to meet both current and future needs forever.

Project Funds

In certain situation the RCF may establish a Project Fund to serve as the 501(c)(3) organization for charitable cause so individuals or groups can avoid the time and expense of creating one. Also, this type of arrangement is often used by organizations who are becoming active and are in the process of filing for 501(c)(3) status and wish to begin collecting donations for their cause.

ADVISORS

Role of Advisors

Donors establishing an advised fund may designate themselves or any person in the immediate succeeding generation to be an advisor on the fund. Fund advisors must be at least 18 years of age. A fund can have more than one advisor but preferably no more than three. Individuals named as "fund advisors" are designated to recommend grants and investment allocation changes, change the fund name or appoint advisors and successor advisors. If a fund is advised jointly, upon the death of one advisor, the remaining advisor(s) retains the rights associated with the fund.

Successor Advisors

The donor and any advisor may designate any person within one generation to be a successor advisor to exercise the rights and duties of an advisor upon an advisor's death or resignation. Successor advisors may assume the right to advise the fund only after the deaths or resignations of all initial advisors named on the fund. The successor advisor(s) may be required to provide written notification and sufficient proof of the donor's or advisor's death prior to assuming the rights and duties of an advisor. Successor advisors may not appoint further successors but may appoint a co-advisor as long as they are in the same generation as the successor advisor. If the successor advisor is a minor, the board 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 the RCF in writing. If the RCF has not received the names of an additional advisor(s) or successor advisor(s) to the fund, or other special instructions, in writing, the RCF will use the fund's balance to support the community grant-making program. The following Fund Advisory Privileges and Fund Relationship definitions further explain the role of advisors and other interested parties to funds at the RCF. These terms correlate to the Advised Fund Agreement form and will help you determine your fund contacts and advisors.

Fund Advisory Privileges Definitions:

Fund Advisor: this individual has full advisory privileges over a fund, including grant recommendations, investment recommendations and other fund administration advisory privileges.

Secondary Advisor: this 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: this individual has access to fund information only but no fund administration advisory privileges to change anything about the fund. (This is the lowest level of authority.)

Fund Relationship Definitions:

Primary Contact: *One person* per fund who should be contacted first for anything concerning the fund. This individual may or may not have full fund advisory privileges.

Founder: The first generation fund advisor. This may be an establishing donor but not always. (Primarily for donor advised funds, committee advised funds and scholarship funds.)

Establishing Donor: The individual that gave the first or endowment gift to the fund. This may be a founder but not always and may have no advisory privileges over a fund. (Primarily for donor advised funds, committee advised funds, scholarship funds, designated funds and field of interest funds.)

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

Professional Advisor: Financial or other advisors such as certified public accountants, lawyers or investment managers. These individuals may or may not have any fund advisory privileges, depending on their status as a fund advisor, secondary advisor or fund representative.

Board Member: For corporate, nonprofit and supporting organization funds that specify board members with direct access to funds. This individual may or may not have any fund authority.

Recommended Spending Policy & Expenditure of Endowment Funds

Although not required, the RCF recommends a minimum five percent (5%) annual distribution rate for all funds. For endowed funds, the RCF's board of directors sets and monitors a required annual distribution rate that is calculated as a percentage of fund assets. This rate is currently five percent (5%) unless otherwise instructed by the donor. This recommendation is subject to change based on: community needs, investment performance and in situations where the donor has instructed that the original dollar amount of their ENDOWED FUND be perpetually maintained the long-term preservation of endowment funds principal.

In accordance with the New York Prudent Management of Institutional Funds Act (NYPMIFA) effective 9/17/10 donors who have elected to place an ENDOWED FUND with the Foundation may select between two choices in regard to expenditures from such funds. Donors may select to allow the Foundation to spend below the original dollar amount of the ENDOWED FUND. In doing so the Foundation must "in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances," and must consider, if relevant, the following factors:

- (1) the duration and preservation of the endowment fund;
- (2) the purposes of the institution and the endowment fund;
- (3) general economic conditions;
- (4) the possible effect of inflation or deflation;
- (5) the expected total return from income and the appreciation of investments;
- (6) other resources of the institution;
- (7) where appropriate and circumstances would otherwise warrant, alternatives to expenditure of the endowment fund, giving due consideration to the effect that such alternatives may have on the institution; and
- (8) the investment policy of the institution.

Alternatively, a donor may instruct that the original dollar amount of their ENDOWED FUND be perpetually maintained.

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 or any nongovernmental organization outside of the United States having a verifiable charitable purpose. Grants may also be given for charitable purposes to non-501(c)(3) organizations if they can be verified through a process called *charitable expenditure responsibility*. Expenditure responsibility is required for any organization not described in IRS Section 170(b)(1)(A), including for-profit companies, private operating foundations and new public charities that do not yet have 501(c)(3) status and qualifying supporting organizations.

Grants given to all 501(c)(3) public charities within the United States must be for a minimum of \$200. Grant checks sent to organizations are accompanied by a RCF letter specifying the name of the fund and the advisor's name(s) unless requested otherwise, by the donor or fund advisor and as approved by the RCF. The advisor's address may also be included on all letters if requested by the advisor. Mail, which the RCF receives for the fund will not be forwarded. Approved grants are typically sent within 10 working days of the recommendation being received or the advisor will be notified as to the reason for a delay. However, any fund submitting 20 or more grant recommendations should allow up to two weeks for processing. Grants made from funds at the RCF are issued on checks with the name and logo of the RCF.

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

Restrictions on Grants

Grants to individuals are not allowed. In compliance with the Internal Revenue Code, grants are not permitted to private non-operating foundations or 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 the advisor recommending the grant. An advisor is subject to IRS penalties if the advisor receives benefits, goods or services in connection with a grant recommended by the advisor. This includes grants to satisfy pledges and non-deductible (or partially tax deductible) memberships, event tickets, sponsorships, registration fees in tournament and cause-related marketing activities. Please contact the RCF if you have questions about the exclusion of benefits from grant recommendations and/or multiple-year payments.

Expense Reimbursement

The RCF does not permit expense reimbursements from an advised fund to any donor, fund advisor or related party. All expenses must be paid by the RCF directly after appropriate review of the expenses and their payees and must be pre-approved by the CEO, CFO or controller of the RCF prior to being incurred. Legislation regulating these payments is currently being clarified and each arrangement will be reviewed individually in light of these evolving policies. The expense submitted for review must be charitable in nature or support a charitable purpose.

Fundraising Policy

The RCF cannot assist event organizers with any kind of public fundraising event to benefit a fund at the RCF. However, a memorial fund can be established in honor of someone who has passed away, and requests for donations in the name of the deceased to the RCF are required to use the following language in obituaries or solicitations for gifts: "Funds raised will be added to the [insert name] Fund at RCF, a 501(c)(3) organization. All checks should be made payable to the [insert name] Fund/Rockland Community Foundation."

Fund Inactivity

If an advisor is no longer willing or able to advise the fund's distribution, and no successor advisor is named, the RCF board will assume responsibility for grant-making. If grant recommendations are not received for a period of two consecutive years, the RCF staff will attempt to contact the fund advisor at least three times via certified mail and allow 30 days for a response. If contact cannot be made, the RCF board will advise an annual payout to support the community grant-making program in accordance with the RCF spending policies. If two more years pass with no contact from the advisor, the fund in its entirety will be transferred to the RCF Founders Fund. A fund must have advisor inactivity for a total of four years before being transferred to the RCF Founders Fund.

Fund Closure

An advisor may recommend closing a fund by granting up to 100 percent (100%) of the fund balance to a qualified public benefit organization. Such recommendations must be received in writing and, if approved, funds will be disbursed in accordance with the RCF's articles of incorporation and bylaws, current agreements, laws and regulations. Closing a fund by recommending a grant to another public benefit corporation which is approved will occur as follows: 80 percent (80%) of the current balance will be granted within 10 business days of the request date, barring any issues with the organization's status as a qualified public charity or equivalent. The remaining balance of the fund, including any residual net earnings, less any associated fees incurred to facilitate the closure of the fund will be granted within the following 90 days.

Endowed funds, where the donor is no longer available or in circumstances where the funds are valued at less than \$100,000, have been in existence for more than 20 years and an institution determines that the donor restriction is unlawful, impracticable, impossible to achieve, or wasteful may be closed in accordance with "*Provisions for where Release of Donor-Imposed Restrictions on Management, Investment, or Purpose of an Institutional Fund*" (N-PCL § 555).

Conflict of Terms

In the event of an inconsistency between these terms and conditions and any terms and conditions appearing elsewhere in connection with any fund, these terms and conditions, as interpreted by the RCF, shall govern, and the RCF reserves the right to take any actions at any time which, in its discretion, it deems reasonably necessary or desirable for the proper administration of any fund or the RCF or to comply with applicable law.

Further information regarding rules and legal requirements regarding investing, management, closing and releasing restrictions with regard to institutional funds can be obtained from the Charities Bureau at www.charitiesnys.com