INACTIVE FUND POLICY

Policy Statement

Pursuant to its charter, the Community Foundation of Greater Memphis (the “Community Foundation”) manages donor advised funds (each a “Fund” and collectively, “Funds”) through which an individual, family, corporation, or other entity may make contributions, receive permissible tax benefits, and advise the Community Foundation both on the investment of such funds and on the granting of amounts therefrom. It is the policy of the Community Foundation that all such Funds be either i) actively engaged in grantmaking, as defined by Community Foundation policy and practice, or ii) managed pursuant to the expressed wishes of the Donor/Advisor for when and how grants will be made in the future.

Background

According to its Charter, the Community Foundation was created, in part, to receive gifts of assets and to use the proceeds thereof “for exclusively charitable purposes in serving and supporting the community needs and interests of the members thereof.”

Each Fund of the Community Foundation was created pursuant to a written agreement (the “Fund Agreement”) executed between the Community Foundation and the respective donor (the “Donor”). The Donor and/or his or her designated successor advisor(s) serve as advisor(s) to the Fund for the purposes of recommending actions under the Fund Agreement, including the investment of amounts held in the Fund and granting of amounts therefrom (each an “Advisor” and collectively, “Advisors”).

The Fund Agreement includes specific terms for the disposition of the assets from each Fund if there is neither i) recommendations from the Advisors to the Fund for a period of five (5) consecutive years, nor ii) a specific plan for the ultimate use of amounts held therein.

This policy was developed to formalize these provisions.

NOTE: Under the terms of the Fund Agreement, in making a contribution to the Fund, “Donor has transferred and assigned to Community Foundation all of the Donor’s right, title and interest in and to certain assets....” (Section 2. Transfer of Assets) And further, that “Donors to the Fund may not impose any material restriction or condition that prevents the Community Foundation from freely and effectively employing the contributed assets, or the income derived therefrom, in furtherance of its charitable purposes.” (Section 3. Conditions of Acceptance)
Practice

The Community Foundation seeks to ensure that all Funds are "actively managed."

A Fund is considered "actively managed" when there is regular communication between one or more Advisors to the Fund and the Community Foundation regarding the existence and purpose of that Fund.

Examples of some of the activities that would deem a Fund as "actively managed" include (but are not limited to):

- **Regular Grant Recommendations.** Advisor generally recommends grants at least annually to qualified charitable organizations. The amount of grantmaking can vary from year to year.

- **Developing a Philanthropic Program.** Advisor makes a substantial contribution to the Fund, for example, upon the sale of his or her business, and refrains from recommending grants for a given initial period while the Advisor consults with the Community Foundation and/or does his or her own research to determine what types of grants will best meet community needs and/or his or her philanthropic goals.

- **Long-term Giving Plan.** Advisor deliberately reduces the frequency or size of grant recommendations from the Fund, for example:
  1. During his or her working years with the intention of increasing the Fund’s balance to support grantmaking during his or her retirement, when the Advisor expects his or her income to change.
  2. Advisor wants to build the balance of the Fund over time so the Advisor’s children can make grants later (the idea being the Advisor is leaving a charitable legacy for the next generation to administer).
  3. Advisor refrains from recommending grants for a given period because the Fund is invested in an illiquid or undervalued investment. Advisor intends to begin making grant recommendations when the investment can be sold at a reasonable price.

- **Starter Fund.** Advisor wishes to build the balance of the Fund to make substantial grants to the community. Therefore, there may be no distributions made until the fund balance reaches a stated amount.

- **Specific Occasion Grant.** Advisor refrains from recommending grants for a number of years with the specific charitable goal of recommending a grant upon a specific occasion. Examples may include:
  1. Advisor is incapacitated with no successor Advisor(s) named so the Community Foundation waits until the Advisor’s death to distribute the Fund according to the Advisor’s stated purpose;
  2. Fund has transitioned to named successor Advisors but they are minors and no adult representative is named to represent them (so grants resume when successor advisors are adults);
  3. Advisors are getting divorced, and grants are suspended until both spouses agree on grants, which may include splitting the Fund into two separate funds, one for each spouse to advise, or eventually dissolving the Fund by the making of charitable grants;
  4. Grants are suspended during litigation involving Fund (e.g., the Donor has left his/her estate to the Fund, but the Donor’s children are disputing the bequest so the Community Foundation does not allow grants until the litigation is resolved);
5. Donor leaves a bequest to a fund and distributions are made periodically to the Fund during the estate settlement process, but grants are not made until the estate is fully settled.

**Remedies**

Pursuant to Section 6. Fund Advisors and Sunset Provisions, of the Fund Agreement:

*If the Fund continues beyond the lives of the named Advisors, or if the named Advisors shall for a period of five (5) consecutive years fail to make recommendations to the Board of Governors, or if the Donor has not provided Schedule C outlining charitable purposes the Fund is to serve, the Board of Governors will determine the disposition of the assets.*

In practice, if i) there are no gifts to a donor advised fund for 36 consecutive months; ii) the Community Foundation has not received a grant recommendation from the Advisor for the same 36-month period; and iii) there are no instructions on Schedule C to the Fund Agreement indicating future grantmaking plans, the Community Foundation will contact the Advisor(s) in order to determine his or her preferred manner of compliance with the above policy. The Advisor will recommend grants currently and/or execute a new or revised Schedule C to the Fund Agreement containing these new provisions.

If – after repeated failed attempts by the Community Foundation to contact the Advisor(s) or failure of the Advisor(s) to take appropriate action, and not less than five years after the most recent grant recommendation from such Advisor(s) – the Board of Governors will determine the disposition of the Fund’s assets. Such options include making an annual payout from the Fund for the Community Foundation’s unrestricted use (such as to the Community Partnership Fund or for the Community Foundation’s general use).

If at a later date the Advisor(s) desire to become re-engaged in advising the Fund, the Board of Governors may choose to have such privilege revert back to the Advisor(s).

**NOTE:** This policy is subject to any future changes in terms, conditions or language as may be necessary or incidental to conform it to any existing or subsequent laws, regulations, or IRS requirements.

**APPROVED BY THE BOARD OF GOVERNORS:**

[Duncan Miller's signature]
Board Chair

[Robert M. Fockler's signature]
President/CEO

[Date: 12/14/17]

[Date: 12/4/2017]