

OPTIONS FOR FINANCIAL GIVING: EXPLORING PHILANTHROPIC VEHICLES FOR FAMILIES AND INDIVIDUALS

Northeastern Michigan Estate Planning Council/
Association of Fundraising Professional – Mid-Michigan Chapter
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INTRODUCTION



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GROUP INTROS

Experience with:

- “Checkbook Giving”
- Planned Giving (via Estate Plan)
- Donor Advised Funds
- Private Foundations/Grantmaking Organizations

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AGENDA

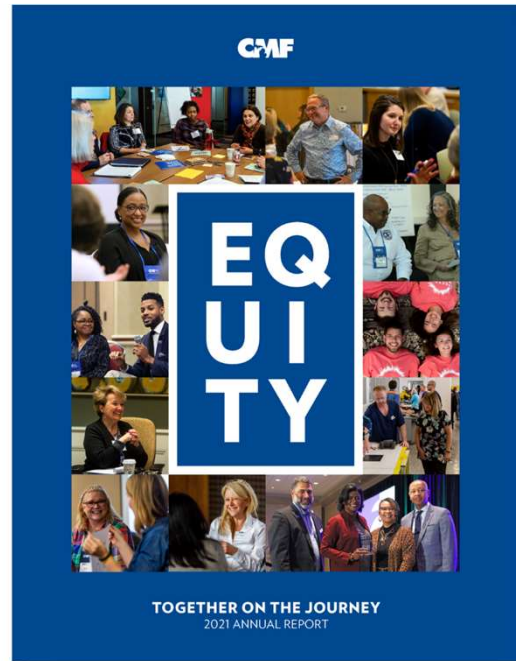
- Michigan Philanthropy Ecosystem
- CMF Resources
- Three Categories of Giving
- Discussion and Q&A

Legal Disclaimer: The content of this presentation is being provided for educational purposes. This information should not be taken as legal advice. The complex laws applicable to tax-exempt organizations change frequently and further legal analysis may be necessary based on additional facts or changes to the current situation.

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Our CMF Community

We are a community of philanthropy — united, diverse and working together for a better, more equitable Michigan.



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THE MICHIGAN PHILANTHROPY ECOSYSTEM

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Michigan Nonprofit Sector Snapshot

- There are more than 38,900 public charities and private foundations.
- Assets exceeding \$117 billion.
- Employment by all nonprofits in Michigan exceeds 470,000 people, just over 1 in 10 of Michigan's nonfarm jobs.

Source: PSC Economic Report, 2018



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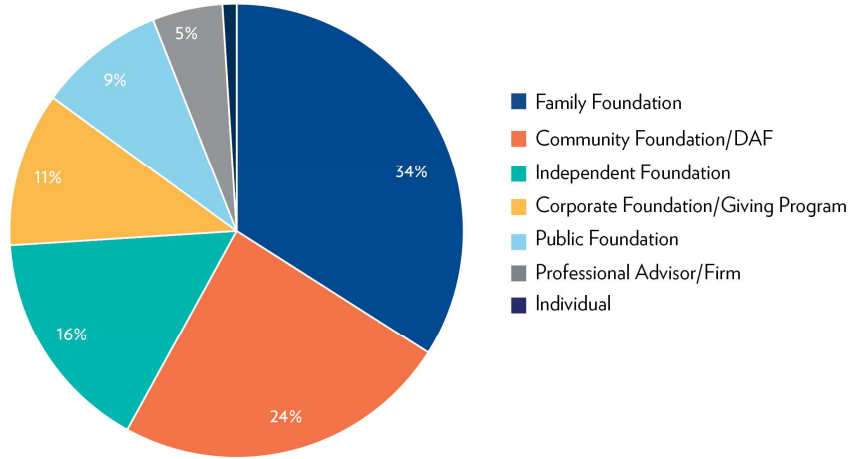
Michigan's Charitable Sector



As a leadership organization committed to a thriving philanthropic sector, we value the ecosystem of partners all working toward equitable, prosperous communities across Michigan.

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CMF MEMBERSHIP



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STAY CONNECTED

- CMF’s website gives you access to resources, events, news, online peer communities and more! Visit www.michiganfoundations.org!
- *The Download* is our weekly digital publication delivered to your inbox every Monday, sharing stories from our community of philanthropy.
- Follow CMF on LinkedIn for the latest research, stories and insights @michfoundations.

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ASK CMF

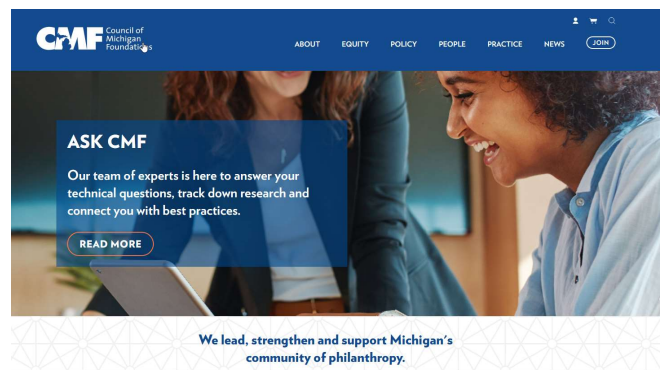
*“We know a thing or two,
because we’ve seen a thing or two.”*

Farmers Insurance Commercial

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WHAT IS ASK CMF?

- 1-to-1 technical assistance service.
- Free member benefit available to all CMF members.
- Available via CMF homepage or www.michiganfoundations.org/practice/ask-cmf



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RESOURCE

“Options for Your Financial Giving”

- Designed for individuals and families considering giving structures
- Sections:
 - Overview of Giving Opportunities
 - Comparative Chart of Giving Options
 - Frequently Asked Questions
- Available in CMF’s Knowledge Center
- Alternative resource for corporations: “Choosing a Corporate Approach”

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OTHER RESOURCES

- Frequently Asked Questions About DAFs
- Comparing Philanthropic Giving Structures: Private Foundation or Community Foundation-Based Fund
- Frequently Asked Questions About Disasters
- And more, available at:
www.michiganfoundations.org/resources/

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OPTIONS FOR FINANCIAL GIVING

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INDIVIDUAL GIVING

Overview:

- Charitable donations directed to 501(c)(3) charities and other mission-oriented organizations.
- Give via cash, assets, planned giving, or other contributions.
- *Advantages:* Highly flexible. No minimums. Tax advantages tied to individual income and wealth vehicles.
- *Disadvantages:* May be inefficient for very large gifts or intergenerational philanthropy.

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DONOR ADVISED FUNDS (DAF)

What is a Donor Advised Fund?

DAFs are defined in the Pension Protection Act of 2006 and the Internal Revenue Code Section 4966 as:

Accounts/funds with the following attributes:

1. Separately identified by reference to contributions made by a donor or donors.
2. Owned and controlled by a sponsoring organization (i.e., community foundation, other public charity)
3. The donor (or their designee) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account.

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DONOR ADVISED FUNDS (DAF)

What is not a Donor Advised Fund?

The Pension Protection Act of 2006 and the Internal Revenue Code Section 4966 outline exceptions to what would be considered to be a DAF:

1. A fund that only makes grant to a single pre-defined organization or governmental unit (i.e., a designated fund)
2. A fund that meets all of the following criteria:
 - a. A person serves in an advisory capacity as part of a committee, where all of the committee members have been appointed by the sponsoring organization.
 - b. The donor, advisors appointed by the donor, and related persons do not control (make up a majority of) the committee advising the fund.
 - c. The advisory committee uses a pre-established set of objectives and non-discriminatory criteria for its grantmaking decisions that have been pre-approved by the sponsoring organization's board of directors.

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DONOR ADVISED FUNDS (DAF)

What is a Sponsoring Organization?

Provides the basis for a DAF account to function, beyond the original donation and signed fund agreement:

- **Back Office Functions:** Accounting, Grant Application Management, Grantmaking, Reporting, Investing
- **Legal Oversight and Ownership:** Sponsor legally owns the assets and ensures the DAF follows state and federal regulation.
- **Policies and Procedures:** Sponsor sets the policies and procedures, including grantmaking cycles, lifespan of funds, payout rates, fees, fundraising/gift acceptance policies, data protection, inactive fund policies, etc.
- **Grantmaking:** Sponsor conducts final due diligence for recommended grants, as well as behind-the-scene activities with applications, payment, and reporting.

A DAF's costs are covered by administrative fees paid to the sponsoring organization.

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DONOR ADVISED FUNDS (DAF)

Overview:

- DAF housed at external “sponsoring organization” that must approve all activity.
- Donor receives tax advantages for gifts and can advise distributions/grants to charitable organizations.
- *Advantages:* Easy to establish. Limited administration. No required tax returns. Back office functions managed by organization.
- *Disadvantages:* Donors have limited control and options for grants. Limited number of generations of advisors.

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DONOR ADVISED FUNDS (DAF)

DAFs as a Planned/Estate Giving Option

- DAFs can be used as a planned giving or estate planning option.
- The donor can establish the fund and appoint advisors (via a fund agreement), while providing the gift/donation via their estate plan.
- However, there are potential long-term limitations of DAF accounts, such as:
 - **Potential Regulatory Changes Impacting DAFs**
 - **Limited Generations of Advisors**
 - **DAF Account Structures**
 - **Inactive Fund Policies**

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GRANTMAKING FOUNDATION

What is a private foundation?

- A 501(c)(3) organization originally funded by a limited number of donors.
- Due to potential influence/control of the funder(s), these orgs have a less favorable tax position and more scrutiny.

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GRANTMAKING FOUNDATION

What is a private foundation?

- Relevant federal tax rules/regulations:
 - **Required Excise Tax:** 1.39% on net investment income
 - **Restrictions on Self Dealing:** Org cannot enter into a financial transaction with a disqualified person.
 - **Required Minimum Distribution:** Must spend 5% of their net investment assets annually.
 - **Restrictions on Excess Business Holdings:** Cannot control businesses (together with disqualified persons or otherwise).
 - **Restrictions on Taxable Expenditures:** Certain activities are considered taxable (lobbying, grants to individuals/non-charities)
 - **Penalties for Jeopardizing Investments**

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GRANTMAKING FOUNDATION

Overview:

- Funded by periodic donations and follow a traditional grantmaking cycle (quarter/annual).
- May be prompted by business sale, death of family member, etc.
- Donors can be directly involved within legal parameters (self dealing).
- Highly regulated by IRS, including mandatory 5% payout rate.
- *Advantages:* Allows for scholarships and tax-efficient giving. Can exist in perpetuity and donor can control grantmaking.
- *Disadvantages:* A separate entity that requires insurance, audits and is subject to legal restrictions.

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COMPARISON OF GIVING OPTIONS

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LEGAL STRUCTURE

Individual Giving

- No formal legal structure, unless using a planned giving vehicle.

DAF

- Sponsoring organization has ultimate “discretion and control” over donated funds.
- Donors can only advise on grants and investments.

Grantmaking Foundation

- A distinct organization, with all legal and tax requirements of a private foundation.

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LIFESPAN

Individual Giving

- Gifts made during donor's lifetime or via planned giving vehicles.

DAF

- Typically last for 1 or 2 generations past donor.
- Transition into pre-determined funds at CF or other charity.

Grantmaking Foundation

- May exist in perpetuity or be designed to make grants within a set period of time.

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LEADERSHIP

Individual Giving

- All decisions made by donors and advisors.

DAF

- Donor can serve as advisor, along with family or designated individuals.
- Restrictions on benefits to DAF holders (donors, family, advisors, related entities).

Grantmaking Foundation

- Stand-alone board of directors, with option to hire staff.

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ADMINISTRATIVE COSTS/SET-UP

Individual Giving

- No administrative costs. External counsel may be required.

DAF

- Quick and easy to establish. Process, administrative fees, and grantmaking criteria may vary by organization.

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ADMINISTRATIVE COSTS/SET-UP

Grantmaking Foundation

- Establishing a private foundation requires:
 - Filing articles of incorporation.
 - Submitting an application to the IRS for EIN and 501(c)(3) status.
 - Requesting state-based tax-exempt status.
 - Establishing a board of directors.
- Foundations also require annual filings with state and federal government (i.e., 990-PF tax returns).

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RECOMMENDED MINIMUM SIZE

Individual Giving

- No minimum amount.

DAF

- Sponsoring organizations vary widely. Some are \$5,000-\$10,000, while others have a minimum of \$25,000+.

Grantmaking Foundation

- Generally, \$1 million+ is recommended by industry standards, although 60% of foundations have <\$1 million in assets.
- Staffed foundations require closer to \$10 million to be sustainable.

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FUNDING/CONTRIBUTIONS

Individual Giving

- Gifts can be from income, assets, or planned giving.
- Gifts to public charities have a tax deduction rate of ~50% of adjusted gross income for gifts of cash (30% for stock/property).

DAF

- Gifts can be made at the donor's convenience (one-time or periodic).
- Gifts to a DAF have a tax deduction rate of 50% of adjusted gross income for gifts of cash (30% for stock/property).
- Grants can be made over time, in keeping with the sponsoring organization's internal policies for payout and inactive funds.

(cont.)

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FUNDING/CONTRIBUTIONS

Grantmaking Foundation

- Gifts from the donors to a foundation have a tax deduction rate of 30% of adjusted gross income for gifts of cash (20% for stock/property).
- Grants can be invested by the foundation and distributed over time.
- Required minimum annual distribution must be equal to 5% of the foundation's net investment income.

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GRANTMAKING

To Domestic Public Charities

- **Individual Giving**
 - Allowable
- **DAF**
 - Allowable
- **Grantmaking Foundation**
 - Allowable

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GRANTMAKING

To Private Foundations

- **Individual Giving**
 - Allowable, but tax deduction may vary.
- **DAF**
 - Allowable with expenditure responsibility and no control by donor or advisors. Very unusual and most sponsors will not allow it for private non-operating foundations.
- **Grantmaking Foundation**
 - Allowable with expenditure responsibility (and mandatory spend-through to count toward 5% distribution). Very unusual.

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GRANTMAKING

To Foreign Charities

- **Individual Giving**
 - Allowable, but charitable deductions may be restricted
- **DAF**
 - Allowable with expenditure responsibility or equivalency determination. Some DAF sponsors refuse to make international grants.
- **Grantmaking Foundation**
 - Allowable with expenditure responsibility or equivalency determination.

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GRANTMAKING

To Individuals in Need

- **Individual Giving**
 - Allowable, but charitable deductions may be limited.
- **DAF**
 - Not allowed to make contributions to individuals
- **Grantmaking Foundation**
 - Allowable, with pre-approval by IRS.

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LOBBYING

Individual Giving

- Contributions to lobbying are allowable but may not have full charitable deduction – depending on recipient organization.

DAF

- Cannot earmark funds for lobbying but can support other advocacy activity and support charities that lobby.

Grantmaking Foundation

- Cannot earmark funds for lobbying but can support other advocacy activity and support charities that lobby.

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SCHOLARSHIPS AND GRANTS TO INDIVIDUALS

Individual Giving

- Can give via existing scholarship programs (via public charities/educational institutions)
- Donations to individuals are not considered charitable.

DAF

- Cannot give scholarships or grants to individuals.
- Can give to another CF fund that follow exemptions in DAF definition (IRC 4966 – no donor control, objective/non-discriminatory criteria)

Grantmaking Foundation

- Can make scholarships, but IRS must pre-approve scholarship procedures.

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DISASTER GRANTMAKING

Individual Giving

- Can make contributions to public charities for disaster relief.

DAF

- Must follow general rules for DAFs.

Grantmaking Foundation

- Can implement a disaster grantmaking strategy or use discretionary grants to address needs.
- Self-dealing rules still apply, including restrictions on disaster program generating business for company or benefitting a disqualified person.

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EVENT SPONSORSHIP

Individual Giving

- Can make a gift to support charitable events, including purchasing tickets or charity benefit tables.

DAF

- Grants cannot provide benefit back to the donor/advisor.
- Cannot pay for sponsorship where tickets are given/prohibits the acceptance of tickets.

Grantmaking Foundation

- Caution should be taken to avoid self-dealing.
- Donors should not receive a personal benefit for foundation's support of an event, although name recognition is permissible.

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TO LEARN MORE

Individual Giving

- Contact the individual's qualified financial, tax, and/or legal counsel.
- Contact charitable organizations directly about potential giving opportunities.

DAF

- Contact the sponsoring organization(s).

Grantmaking Foundation

- Contact CMF for more information.
- Contact qualified financial, tax, and/or legal counsel.

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GROUP DISCUSSION

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OPTIONS FOR FINANCIAL GIVING

Discussion Questions:

- *What “aha” moments or new realizations did you have as a result of this discussion?*
- *What challenges/questions are coming up for you based on today’s discussion?*
- *What is the most pressing question/issue of concern for your clients and donors?*
- *What do you wish you knew more about this topic?*

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DISCUSSION AND QUESTIONS

What takeaways from this session do you most want to share with clients, donors, and colleagues?

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CONTACT INFORMATION

- To reach Brittany Kienker, email her at: bkienker@michiganfoundations.org
- To learn more about CMF and related resources, visit: www.michiganfoundations.org

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THANK YOU!

