

### **Grant Due Diligence Policy – October 2019**

As part of our continuous improvement process, EBCF periodically reviews and updates our policies and procedures to ensure legal compliance as well as adherence to industry best practices. EBCF shares these updates with fund holders, grantees, and the wider community as part of our commitment to all stakeholders.

As part of our grant due diligence process, EBCF conducts a review of all grant recommendations to verify the recommended grantee's 501(c)(3) status, current staff, mailing address, and to verify that the grant purpose is permissible under applicable laws, including IRS regulations.

Decisions regarding grant distributions made from all funds and the investment of assets, are made at EBCF's discretion in furtherance of its charitable mission for A Just East Bay. As part of the decision-making process, EBCF may consult advisors in appropriate circumstances.

The current Grant Due Diligence Policy ensures that grants are made in compliance with applicable laws and in furtherance of our philanthropic goals of eliminating structural barriers, advancing racial equity, and transforming political, social, and economic outcomes.

### **Frequently Asked Questions:**

- How does this policy affect Donor Advised Funds (DAFs)?  
EBCF is committed to ensuring that all funds are compliant with applicable laws, including IRS regulations, and that all grant making is aligned with our mission and values. The Grant Due Diligence Policy highlights important guidelines, particularly related to donor advised funds, of which all fund representatives should be aware.
- How does this affect agency and designated funds?  
Agency and designated funds differ from donor advised funds and are subject to different IRS regulations and applicable laws. EBCF follows IRS regulations for these types of funds and grant distributions will be made per the fund's individual agreement.
- How does this affect unrestricted and field of interest funds?  
Unrestricted and field of interest funds are not subject to the same IRS regulations as donor advised funds, but they must adhere to the specific purpose and procedures outlined in the respective fund agreement.
- Are grants to individuals prohibited?  
Federal tax law, including IRS regulations, prohibit grants to individuals from donor advised funds. This includes grants to schools, colleges, and university for the benefit of an individual.

As an alternative, EBCF offers scholarship funds for donors interested in supporting the educational careers of students in accordance with applicable laws.

- Are there additional restrictions on payments from donor advised funds?  
Under federal tax law, donor advised funds are prohibited from making grants or payments to donors, advisors, and related parties including expense reimbursement. This also applies for grants in which the donor, advisor, or any related party receives any goods or services. For example, donor advised funds cannot be used to pay donors' pledges, or membership dues, or tables/seats at fundraising events, or any other purpose that would confer more than an incidental benefit to the donor or donor-related parties.
- Can I recommend a grant from my DAF to organizations that are neither a 501(c)(3) nor a government units?  
EBCF makes every effort to ensure that all grant making complies with applicable laws. If a recommended grantee does not have 501(c)(3) status but has a project that accomplishes an exempt purpose (charitable, religious, scientific, literary, or educational, or the prevention of cruelty to children or animals, or fostering national or international amateur sports competition), DAF grants may be made to such grantee using a process called Expenditure Responsibility (ER). ER is a process designed: (a) to ascertain whether the organization is organized and has the capability to accomplish the grant's intended purpose, and (b) if the grant is made, to ensure the organization the so uses the grant.
- What is EBCF's grant policy on organizations that support or engage in hateful activities?  
EBCF will not **make grants to organizations** that EBCF knows or has reason to believe support or engage in **hateful activities**. EBCF will implement this policy through due diligence to ensure that hateful activities are identified and steps are taken to avoid any EBCF support for them.

**Hateful activities** is defined to mean activities that incite or engage in violence, intimidation, harassment, threats, or defamation targeting an individual or group based on their actual or perceived race, color, religion, national origin, ethnicity, immigration status, gender, gender identity, sexual orientation, or disability. These activities are contrary to EBCF's mission and its charitable purpose.

Decisions regarding grant distributions made from a donor advised fund, and the investment of assets, are made at the sole discretion of EBCF in furtherance of its charitable mission for A Just East Bay

As part of its review, EBCF may consult resources such as the Southern Poverty Law Center (including the Center's Hate Group Map) to identify and update information regarding potentially hateful activities and organizations.

For more information about the Grant Due Diligence Policy, contact Anoop Kaur, Director of Donor Services and Administrative Support, at [akaur@eastbaycf.org](mailto:akaur@eastbaycf.org).

➤ How does Southern Poverty Law Center determine who is a hate group?  
Southern Poverty Law Center has a high bar for listing organizations as hate groups by looking for “organizations that demean or debase an entire other group of people based on their inherent characteristics.” Other characteristics of hate groups are those that issue serious slurs and threaten civil rights, and in some cases inflict serious physical harm on groups of people.

➤ Can you tell me more about Amalgamated Foundation and its *Hate Is Not Charitable Campaign*?  
All across the nation, philanthropic organizations have been actively looking at how to improve funding to positively impact local communities. In March 2019, EBCF made the commitment to support the Amalgamated Foundation’s *Hate is Not Charitable Campaign*. This pledge was the result of a recent investigative media report exposing the use of donor advised funds to finance hate groups that appear on Southern Poverty Law Center’s Hate Group map. Many of these groups have raised millions of dollars to support organizations that engage in discriminatory practices against one or more protected classes of people.

From Amalgamated Foundation: The *Hate is Not Charitable Campaign* calls for DAF providers to exercise their legal discretion over grants recommended by their donors and adopt pro-active policies to ensure that funds do not flow to organizations that promote hatred. Additionally, the Campaign calls for “donors of conscience” to demand that their own donor advised providers adopt such policies.

For more information, please visit the **Hate Is Not Charitable Campaign website**.

➤ What is a protected class of people?

A protected class is a group of people who qualify for protection against discrimination. According to the California State Senate website, these are the protected classes in our state:

#### Protected Classes

- Race
- Color
- Religion (includes religious dress and grooming practices)
- Sex/gender (includes pregnancy, childbirth, breastfeeding and/ or related medical conditions)
- Gender identity, gender expression
- Sexual orientation
- Marital status

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- Medical condition (genetic characteristics, cancer or a record or history of cancer)
- Military or veteran status
- National origin (includes language use and possession of a driver's license issued to persons unable to provide their presence in the United State is authorized under federal law)
- Ancestry
- Disability (mental and physical including HIV/AIDS, cancer, and genetic characteristics)
- Genetic information
- Request for family care leave
- Request for leave for an employee's own serious health condition
- Request for pregnancy disability leave
- Retaliation for reporting patient abuse in tax-supported institutions
- Age (over 40)

➤ How does this new EBCF policy benefit me and the community?

At EBCF, we understand the importance of continuing to create the conditions that enable the kind of equitable future to which we aspire. This policy helps EBCF to work more closely with donors, through grant making due diligence, to provide deeper impact in the community.

This represents a new way of working for EBCF, but it is one that allows us to continue to support the interests of our donors and the immediate needs of the community, while also investing the necessary resources to transform long-term outcomes for this East Bay region that we all care so deeply about.

EBCF has made the decision to support movements and structural change and to acknowledge the larger context—both historical and present—of giving. This shift highlights our vision and mission and helps to inform our grant making moving forward as an organization.

As your community foundation, EBCF is committed to using philanthropy to advance the cause of racial equity and social justice, to bring about the health and well-being of communities. We have taken the view that addressing structural inequities requires directing resources to support community-led social movements to build civic engagement that advances political and legislative solutions.

By developing community agency and local leadership, communities are equipped with the ability to engage on a range of issues, and to ensure they have the essentials necessary to thrive in our region.

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