



**GIANT, IMPORTANT DISCLAIMER: WE AREN'T GIVING LEGAL, TAX OR FINANCIAL ADVICE. PLEASE SEEK YOUR OWN COUNSEL FOR ANY DONATIONS. MANY OF THESE QUESTIONS ARE OPEN TO SOME INTERPRETATION, ARE GENERAL IN NATURE OR ARE UNIQUE TO A PARTICULAR JURISDICTION. ASSUME ALL ANSWERS ARE WRONG UNTIL YOU/YOUR DONOR CONFIRMS WITH HER/HIS ADVISOR.**

**Q & A from “Slippery Slopes: Should Donor Advised Funds Grant To or Receive Contributions From Hate/Discriminatory/Mission-Antithetical Groups?”  
<Nov/Dec, 2023>**

<b>How are you grouping Jewish federations' DAF programs?</b>	In the "faith-aligned" category
<b>How limited can single issue DAFs be?</b>	"Single issue" is a term of art more than law. It has tended to be used for DAFs established by operating charities like Rotary or a university. Each of them has varying rules on how much the donor must advise grants to the host (e.g. Rotary) vs. other places.
<b>Pub 78 holds unless you happen to know the circumstances that will trigger revocation.</b>	Yes. And... there have been occasional errors in the IRS's published list, and the IRS has provided tax-exempt status to organizations in error.
<b>The IRS also makes occasional mistakes with the opposite impact: a charity that has public charity status nevertheless can't be found in Pub. 78. There is, however, a process the charity can follow to rectify the situation.</b>	When I led a family foundation, we encountered that error at least twice in 3 years.
<b>Can a community foundation deny or discourage gifts to "competitors" in the community?</b>	Technically yes. Gifts to DAFs are completed gifts and under legal control of the CF. It can apply rules and values to the grantmaking as it desires. Would that be a popular or easily workable goal, especially with professional advisors? Not so much.



<p><b>I work for a 501(c)(19) and we struggle to receive DAF grants directly, often having to route gifts through our (c)(3) foundation. We've even been advised on multiple occasions that sponsoring orgs have a 'blanket policy' against granting to (c)(19)s.</b></p> <p><b>I see we're listed on the Pub 78 with an "EO" deductibility code. Does our (c)(19) designation or EO code have anything to do with this?</b></p>	<p>The reason DAF sponsors will shy away from expenditure responsibility is because it can be time intensive and depending upon the sponsor, they likely don't have the resources.</p> <p>All DAF sponsors can opt to exercise "<a href="#">expenditure responsibility</a>" for grants to other entities, as long as the purpose of the grant still meets the IRS's definition of charitable work. The IRS first created expenditure responsibility rules for private foundations and the same idea carried over to DAFs. Because it requires more work and reporting for both the DAF sponsor and grantee, most DAF sponsors don't do it or only in limited circumstances. Charities Aid Foundation is one of the few that does it regularly because it specializes in international giving. So long answer short, you'll gain more funds more quickly by using your 501(c)(3) partner organization.</p>
<p><b>This is great, as the premise for most of our DAF holders are creating one where values alignment is expressed and of primary concern to them... sort of a "like minded" giver sensing that we are their best fit for grantmaking with a 99.9% approval rate.</b></p>	<p>Thanks for the example. Several DAFs lean into the marketing (and related services) about building a "community of like-minded givers."</p>
<p><b>Thank you for having the courage to have this conversation!!</b></p>	<p>We'll see! Our clients are seeing these issues constantly now so are just struggling how to react vs. being proactive and how to communicate this as well.</p>
<p><b>Could donations to a DAF be sourced from money laundering activities? If so, how to deal with these funds?</b></p>	<p>If you can write a check from laundered funds or ANY other nefarious activity, which of course you can, then you can make a DAF donation - or ANY other charity donation of course.</p> <p>Each nonprofit (and DAF sponsor as a subset) needs to decide how much due diligence it wishes to do on donors and their assets. The resource sheet has a couple of links to examples.</p>

<p><b>In cases where donors don't agree with your anti-hate statement, what are some talking points for responding?</b></p>	<p>Having clarity of communication is key but also referring them to another charity or DAF Sponsor who might be a better fit.</p> <p>The Council on Foundations resources (free to the public) on the resource list provides some clues. We've seen CEOs rely on versions of the language in one of the quotes in our slides:</p> <p><i>"While we do not police the ideology of our donors, we also do not allow grants to groups that promote violence. We rely on the IRS to regulate organizations, but if we have knowledge of a public charity that is promoting violence, no matter the ideology of the group, we will not permit grants to that charity."</i></p>
<p><b>Do you have this same program including talking about workplace giving programs?</b></p>	<p>Thankfully no, but the DAF vehicle is not that different from any other charitable piping. So, 90%+ of this content hopefully is pretty much the same for workplace giving or private foundation grantmaking, or corporate giving, etc. (And some workplace giving programs are through DAFs...)</p>
<p><b>When will the recording be available?</b></p>	<p>The week of Dec 11 - posted on our website with our other 40 or so past webinars. It will have Q&amp;A as well as the resource list Tony mentioned.</p>
<p><b>A little futurist question: You referred to changes over the years to your past foundation's DAF policy, do you have any future (next generation of DAF) predictions for restriction or expansion with legality around DAFs? BEYOND some of the IRS recently proposed regulations and the proposed distribution time period regulations legislation talk?</b></p> <p><b>I'm questioning, what will DAFs look like in 10 years?</b></p>	<p>Oh goodness, always hard to predict Congress and its relationship with the IRS.</p> <p>At a larger level, based on what Tony saw and heard at the DAF Giving Summits, likely changes in the DAF universe:</p> <ul style="list-style-type: none"> <li>• Additional tech-enabled streamlining of the whole experience: setting up the fund, gifting, granting, grantee reporting etc. (examples of newer DAFs like Endowment and CharityVest).</li> <li>• More DAF sponsors adding deeper philanthropic services – e.g., grantee research, issue research, deeper due diligence, donor education, family philanthropy services etc.</li> <li>• There's continued M&amp;A in the wealth management and RIA worlds and that might lead to consolidation in DAF sponsors.</li> <li>• Any changes in regulation (tighter restrictions) will likely also result in a bit of M&amp;A in DAF sponsors, or at least more subcontracting and white labeling.</li> </ul>

<p><b>Thanks! Do you believe that the criteria must be applied to all gifts that fit some criteria and not just ones that pop out at you by name?</b></p>	<p>Realistically, you're probably applying levels 3 and 4 to grants over \$X. No DAF sponsor has the staffing to do those levels for all grants or customers.</p>
<p><b>Curious about the words 'values/principles' with regard to an organization's gift acceptance policy... might it be clearer to speak about 'mission and purpose'?</b></p>	<p>Often a mission statement is bigger-picture and doesn't clearly state an organization's values and guiding principles. Ekstrom Alley Clontz has encouraged clients to create or sharpen values statements so they can more clearly be applied across the organizations – governance, operations, gift acceptance, HR, investments, grantmaking, program development etc. It often means having principles or culture manifestos that describe how the organization will live out its values.</p>
<p><b>We recently received a DAF transfer from a donor whose DAF was located at a faith-based CF that declined one of their grant recommendations for what I'll call optics reasons. Yay us, we now have that DAF, but the donor was particularly interested in being able to make grants to international orgs, and while for domestic grants we have a policy in place to avoid hate groups, in keeping with our CF's values, we don't have a system or policy in place to vet international organizations such that we can avoid, say, terrorist or terrorist-adjacent organizations, for instance... Although the initial grant that caused this donor to move their funds to us (we are not faith-based) was totally fine with us (and in fact US-based and civil rights oriented) we are in need of figuring out what our international equivalent of our "hate screen" (via SPLC) for future requests for international orgs so we don't have blood on our hands, potentially, etc... get my drift?</b></p>	<p>I thought we were making this complicated enough for domestic grants and you had to throw international grantmaking in the mix. I get your drift - sometimes it isn't good when the dog catches the car!</p> <p><i>See next question below for example international intermediaries that could help.</i></p>

<p><b>So, I guess the implicit question embedded there is, is there an international equivalent of the SPLC Hate Watch database? What are others doing regarding international organizations?</b></p>	<p>Many will use international DAF conduits like Give2Asia, King Baoudouin Foundation US, GlobalGiving and/or Charities Aid Foundation. Then they have ED role as well as values filters.</p>
<p><b>What about "church" groups that some consider cults? Scientology for example. We have a potential donor who is a current member of an organization that others are accusing of being a cult. There are no current criminal charges, just accusations.</b></p>	<p>It is all in perspective - if you are comfortable giving to any public charity (or deemed charity), or if not, you might find another DAF or charity that will make the grant. If that is all they want to do, then they may need a more-aligned partner.</p>
<p><b>Do you suggest making public the "level" your organization uses for due diligence on grants?</b></p>	<p>Yes. Community foundations who have implemented “hate speech” policies: give advance warning to donors/fundholders about the new policy, send letters about the policy going into effect, post information on their website, and add information to all the DAF intake and program description documents.</p> <p>You could do the same for the lower levels – it is a value proposition to sell.</p>
<p><b>Any advice for handling controversial grant recommendations in a bequest, if the problems are not apparent until after the donor has passed?</b></p>	<p>That’s tough. Ultimately an organization can decide not to accept the bequest, or appeal to the executor or trustee to modify grant requests.</p>