



Is the Fund a Donor-Advised Fund?

The flowchart on the following pages is designed to help community foundations determine which funds should be classified as donor-advised under the Pension Protection Act of 2006. For more information about the definition of a donor-advised fund, see the document entitled “Definition of a Donor-Advised Fund.”

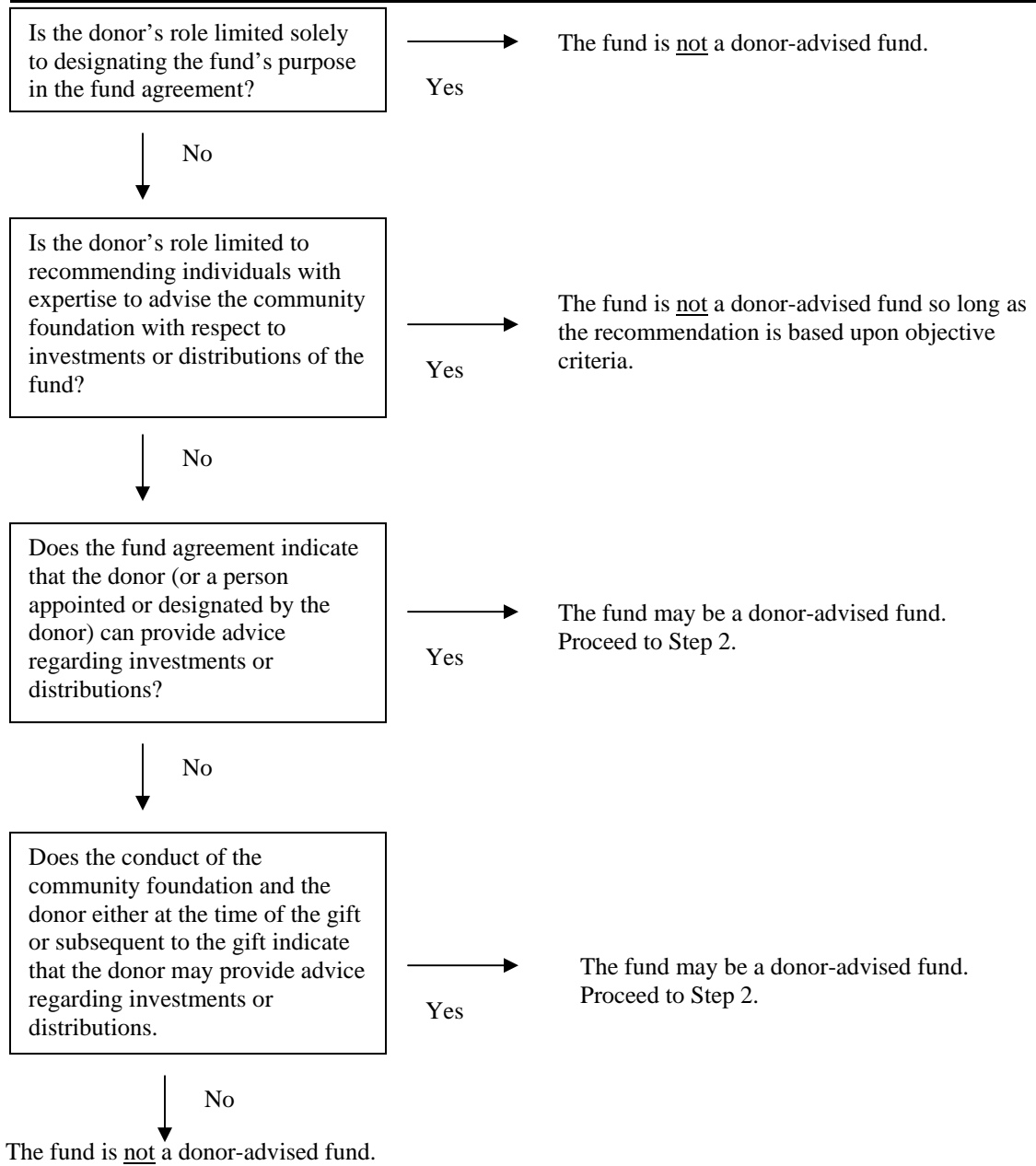
Summary

A fund is only a donor-advised fund if:

- A donor or person appointed or designated by the donor has, or reasonably expects to have, advisory privileges with respect to distributions or investments (Step 1);
- The fund is separately identified by reference to contributions of donor(s) (Step 2); and
- The fund does not fall within an exception established by the Act (Step 3).

The information provided here is based on our continuing analysis of the bill. Every effort has been made to ensure accuracy of these documents. However, due to the complexity of the bill and the fact that many of these provisions introduce issues that are new to the Internal Revenue Code, please understand that this information is subject to change. The information is not a substitute for expert legal, tax or other professional advice and we strongly encourage grantmakers and donors to work with their counsel to determine the impact of this legislation on their particular situations. This information may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code.

Step 1: Does a donor or person appointed or designated by the donor have, or reasonably expect to have, advisory privileges with respect to distributions or investments?



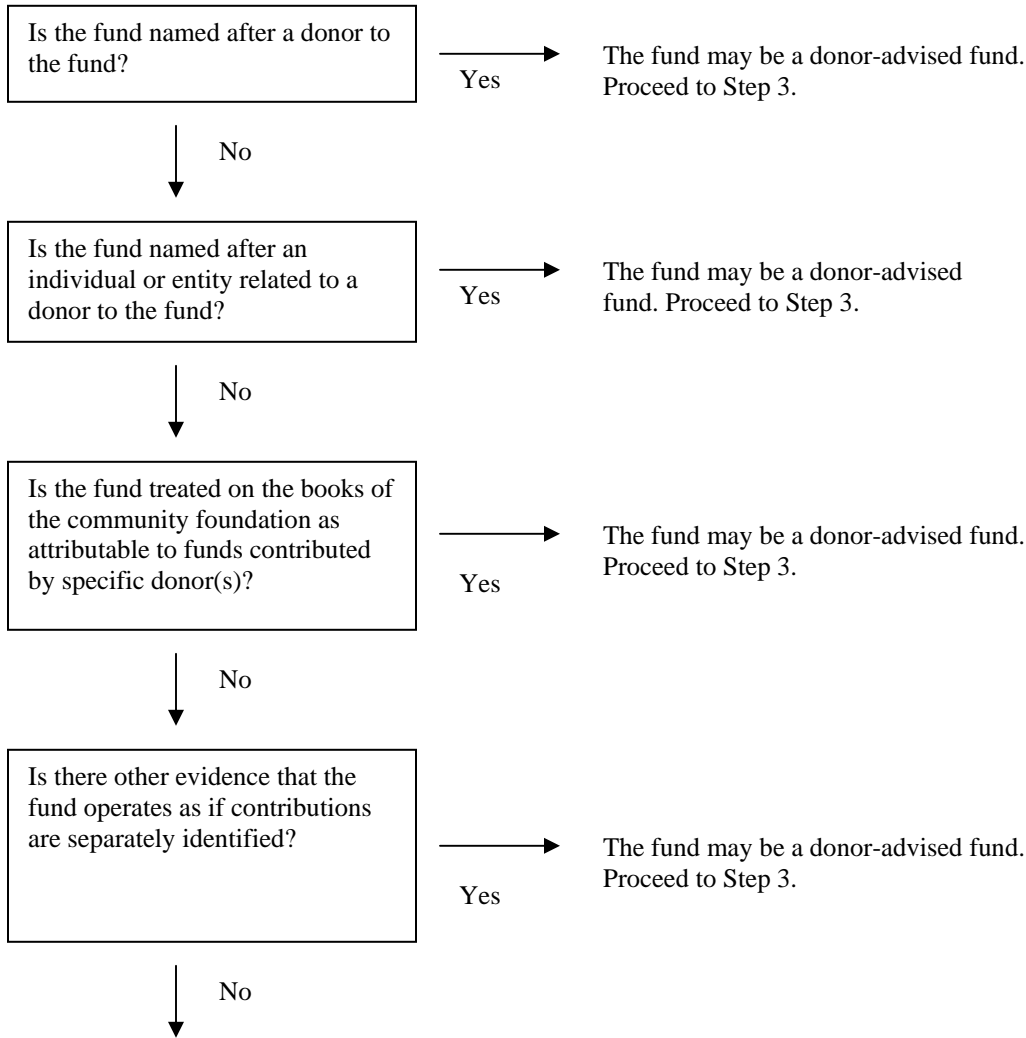
Frequently Asked Question: Are these donor-advised funds?

A company established a fund but does not contribute to the fund. The fund is named for the company and advised by a top company official.

A family established a fund to honor a deceased child but the family is not a donor to the fund. All contributions are raised through fundraising activities but the family makes grant recommendations.

Neither the Act nor the legislative history provides a clear answer to the question of whether these are examples of donor-advised funds. Without clear guidance, the conservative approach is to treat these funds as donor-advised until additional guidance is provided. Community foundations should work with their professional advisors to determine the best approach for handling the classification of these funds.

Step 2: Is the fund separately identified by reference to contributions of donor(s)?

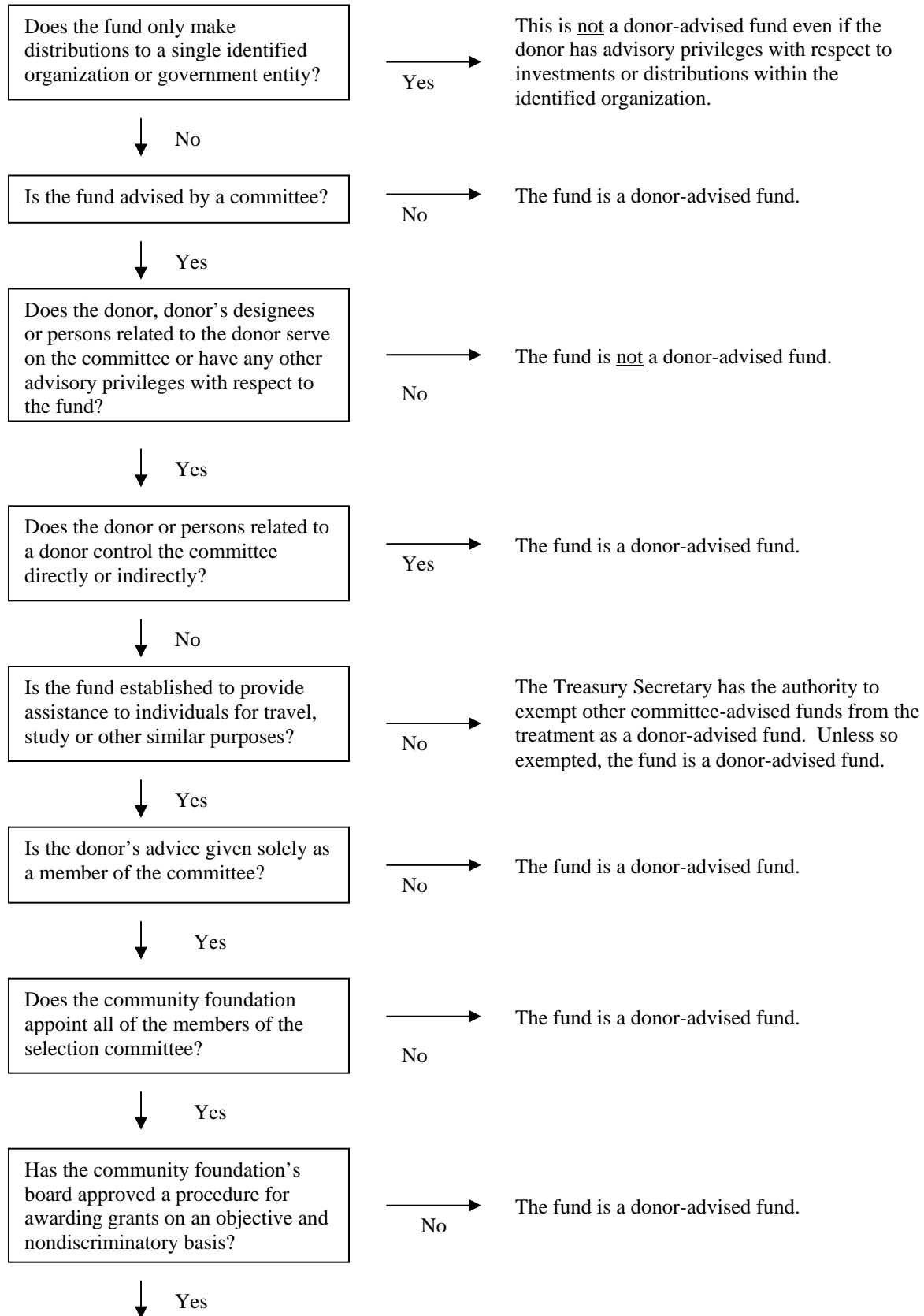


The fund is not a donor-advised fund.

Frequently Asked Question: Who are “related parties”?

While the Act and its legislative history provide no definition, immediate family members (i.e. spouse, children) would likely be considered related parties. Businesses controlled by donors also are likely to be considered related.

Step 3: Does the fund fall within an exception established by the Act?



The fund is not a donor-advised fund.
