

Top Concern for Community Foundations: Donor-Advised Fund Regulations

A Commonfund Viewpoint

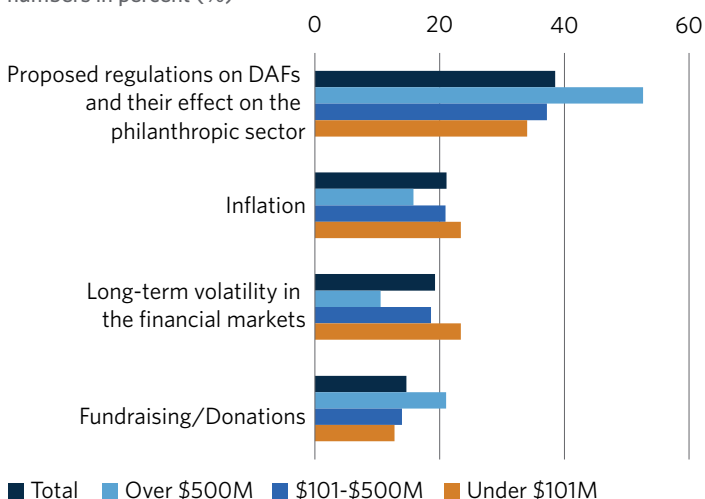


Potential regulations on donor-advised funds (DAFs) and their effect on the philanthropic sector was the most-cited concern among community foundations in this year's Council on Foundations–Commonfund Study of Investment of Endowments for Private and Community Foundations® (CCSF; the “Study”), with 39 percent of community foundations responding that it is one of their top two current concerns.

Community foundations in all size cohorts most often selected potential DAF regulations as a top concern, to varying degrees: more than half of the largest community foundations (those with over \$500 million in assets) did, while more than one-third of the other two size cohorts did. Since it was the predominant top concern across size cohorts, we focus in on this issue below.

MOST-CITED CONCERNS BY COMMUNITY FOUNDATION SIZE

numbers in percent (%)



WHAT ARE DAFS?

Donor-advised funds are a vehicle for charitable giving that allows a donor to make a tax-deductible contribution of cash, stocks, or other assets, with advisory power in terms of what causes and charities those dollars are deployed to serve. Primary differences between DAFs and a one-time gift are the level of input and engagement from the donor, and that with a DAF, the gift enters into an account that can be invested and grown over time in order to continue to support the stated cause.

WHAT ARE POTENTIAL REGULATIONS ON DAFS AND THEIR EFFECT ON THE PHILANTHROPIC SECTOR?

The growth in DAFs has garnered scrutiny, most often due to their ability to avoid the minimum 5 percent payout required for charitable funds at private foundations. Key regulations initiated in this Study's calendar year were proposed IRS regulations released in November 2023. The proposed regulations attempt to create a standardized definition of what constitutes a DAF, and aims to bring them under the same regulatory framework that applies to pension funds, which would add an excise tax to the donor "advisor" and the sponsoring organization (e.g. a community foundation).

According to the Council on Foundations, the proposed regulations would reduce funds flowing to nonprofits that administer these vehicles, stifling their capacity to support their communities, and negate the benefits of DAFs for streamlining giving.¹

INCREASING PRESSURES ACROSS THE COMMUNITY FOUNDATION BUSINESS MODEL

While giving to DAFs has increased, overall giving has decreased. According to Study data, more community foundations have reported a decrease in gifts and donations, compared with those that reported an increase, for two years in a row. In 2022, 67 percent of community foundations reported a decrease in gifts while only 31 percent reported an increase in gifts. In this year's Study, 51 percent of community foundations reported a decrease in gifts while 36 percent reported an increase.

Gifts are not the only factor intensifying pressures on community foundations (this was only a highly cited concern for the largest community foundations in this year's Study). With inflation increasing the costs of operations and needs among community foundation stakeholders, plus volatile markets making meeting return objectives more uncertain, community foundations are hoping any regulations do not compound these challenges.

¹ Policy Areas Impacting Endowments and Foundations Today ([commonfund.org](https://www.commonfund.org))

WHAT ARE COMMUNITY FOUNDATIONS SAYING ABOUT THIS?

As documented by the Council on Foundations, community foundations spoke about the proposed regulations at a hearing in May 2024, offering nuanced insight into how they might impact the segment:

- Deborah L. Wilkerson, Greater Kansas City Community Foundation: *“Never have we seen an investment advisor suggest that a donor not grant, or even slow down the process. They liquidate and get us cash quickly for grants whenever we ask. Our numbers prove it. Our DAFs managed by investment advisors have a payout rate around 15 percent. That’s three times what donors would have granted through a private foundation.”*
- Rose Bradshaw, North Texas Community Foundation: *“Donor-advised funds are a critical tool in our toolbox, and investment advisers are key partners helping us to grow assets for our community. They introduce us to their clients, then help charitable dollars benefit from investment performance and the magic of compound interest.”*
- Anna Maria Chavez, Arizona Community Foundation: *“The Arizona Community Foundation’s donors and DAF advisors are active, and their involvement establishes a connection that leads to greater impact. By establishing a fund... donors continue to invest in the needs of communities as time goes on and often continue to give to their funds after making their initial contributions. The average payout rate over the past three years for DAFs at the Arizona Community Foundation has been 14.5 percent, well above the typical private foundation payout of 5 percent.”*
- Eileen R. Heisman, National Philanthropic Trust: *“For the past 15 years, NPT has been publishing the preeminent report on donor-advised fund activity. We compile data from all charities that submit a DAF reporting schedule with their Form 990 informational returns. The 10-year trends are compelling: from 2013 through 2022 (the most recent year for which data is publicly available), DAF grantmaking grew 430 percent from \$9.84B to \$52.16B in charitable grants. The average annual increase in grantmaking over that time period was roughly 19.5%. During this same time period, the payout rate from DAFs across the sector has never dipped below 20 percent.”*
- Bob Sorge, Madison Community Foundation: *“These restrictions fail to understand our business model fully and would add unnecessary complication for an organization that already has very strong conflict-of-interest policies in place.”*
- Michael Parks, Dayton Foundation: *“Dayton as a community has the fifth-highest poverty rate in America and the needs in our community are great. These gifts from funds of the foundation are absolutely vital and every dollar matters in helping us to meet critical community needs. Today, the number of Americans who give to charity is dropping. Our hope would be that the proposed regulations would encourage even more giving in our community. It’s so desperately needed.”*

Community foundations and their partners continue to monitor these developments and await final decisions. For more resource on this topic, see [Commonfund’s policy series](#) and the [Council on Foundations DAFs resource page](#).





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