

# Converting a Private Foundation to a Donor-Advised Fund



## Philanthropy Insights

*Over the past decade, donor-advised funds have grown dramatically in popularity due to their tax advantages, low administrative burden, grant anonymity if preferred, and other factors. These benefits have led many private foundations and other charitable entities (such as dissolving religious organizations and grantmaking public charities) to convert to donor-advised funds. As entities considering converting to a donor-advised fund examine the tradeoffs, questions naturally arise around the steps involved in completing a conversion. Below we provide a high-level overview of the process.*

Should you decide to proceed with a conversion, it is important to engage an attorney skilled in nonprofit law to examine the factors specific to your organization and state to guide you through the process. Some of the key issues to assess are the impact of multi-year commitments on conversion feasibility, grant restrictions that may require a mechanism to maintain the restriction in the donor-advised fund, specific donor rights, termination provisions in the foundation's governing documents, and other factors.

While the receiving donor-advised fund can be set up at any time, and can often receive some funding before the conversion, the full conversion process and funding can take six to twelve months, depending upon any applicable filing requirements and processing time through any state government entities that may need to review or assent to the conversion.



### Learn More:

For more insights or information on Fiduciary Trust Charitable visit:

[www.FTCharitable.org](http://www.FTCharitable.org)

### or contact:

Todd Eckler  
[teckler@fiduciary-trust.com](mailto:teckler@fiduciary-trust.com)  
617-292-6766



If conversion of a private foundation to a donor-advised fund appears attractive, [there are] key steps required to complete the process



Learn More:

To learn more about our donor-advised fund program visit: [fidtrustco.com/daf](https://fidtrustco.com/daf)

## Key Steps to Convert to a Donor-Advised Fund

If conversion of a private foundation to a donor-advised fund (DAF) appears attractive, the following are the key steps required to complete the process:

### 1. Obtain conversion approval from the foundation board

The governing body of the organization should vote in a manner consistent with the governing documents and state law to approve the dissolution. Legal counsel should draft formal papers for approval to document the decision for use with state regulators and other purposes.

### 2. Request conversion approval from the state regulators and the court, if necessary

In some states, such as Massachusetts, foundations established as trusts can simply terminate in accordance with their trust terms, so long as they are grantmaking trusts and are not gifting donor-restricted funds. In other cases, one or more state regulators (typically the state attorney general, the secretary of state, and/or the state's taxing authorities) may have to approve the dissolution before an extraordinary distribution of assets is made to a donor-advised fund. Court approval may be required as well.

### 3. Establish donor-advised fund and name advisors

The foundation board should select a donor-advised fund sponsor, such as Fiduciary Trust Charitable, and open a DAF account(s). The foundation could be distributed into one DAF or multiple DAFs, depending on the agreed upon terms of distribution. Typically, the foundation board members are named as charitable advisors to recommend grants from the DAF.

### 4. Establish a foundation reserve for final expenses

Once assets are transferred from a foundation to a DAF, the funds are no longer eligible to be used to pay for obligations of the foundation, such as taxes, attorney fees, and certain other commitments. Therefore, it is important to account for these expenses and hold back a reserve to cover them, before all the assets are transferred to the DAF.

### 5. Transfer assets to the donor-advised fund(s)

Contact the donor-advised fund sponsor and initiate a request to transfer assets to the DAF from the foundation's investment manager.

### 6. Complete final foundation tax filings

The foundation will need to complete the final IRS form 990-PF and the appropriate state filings.

Once the conversion is complete, the DAF charitable advisors (typically the former foundation board members) can focus their time on grant recommendations, without the distraction, expenses, and fiduciary risks of managing a private foundation.

## Authors



**Todd H. Eckler**  
Executive Director,  
Fiduciary Trust Charitable



**Kelly J. Guarino, JD**  
Vice President & Trust Counsel,  
Fiduciary Trust Company

If you are actively considering converting a charitable entity to a DAF, it is also important to keep an eye on the regulatory developments regarding the use of donor-advised funds by private foundations. Currently, private foundations can satisfy their 5% annual distribution requirement by donating to a DAF. A 2022 Biden administration proposal seeks to require such distributions to be paid out by the donor-advised fund by the end of the following tax year. The proposal does not specifically address foundation conversions to DAFs.

Fiduciary Trust Company has been working with nonprofits for more than 70 years and offers a flexible donor-advised fund program through Fiduciary Trust Charitable, which has been serving donors for more than 30 years. Both organizations have significant experience in converting different types of charitable entities (private foundation, religious organization, and other public charity types) to donor-advised funds. Donors can benefit from the Fiduciary Trust legal team's expertise as we work with our clients' attorneys on conversions. Reach out to your Fiduciary Trust Company Officer if you would like to learn more about converting to a donor-advised fund. ■

Published April 1, 2022



### Learn More:

For more insights or information  
on Fiduciary Trust Charitable visit:

[www.FTCharitable.org](http://www.FTCharitable.org)

### or contact:

Todd Eckler  
[teckler@fiduciary-trust.com](mailto:teckler@fiduciary-trust.com)  
617-292-6766